By Mr. SLAYDEN: Petition of citizens of San Antonio, Tex., against rural parcels-post service; to the Committee on the Post Office and Post Roads.

By Mr. STERLING: Petition of J. W. Perryman and others, of Clinton, and M. Heard and others and members of the Baptist Church of Thompsonville, in the State of Illinois, for House bill 23641, the Miller-Curtis bill; to the Committee on the Judiciary.

Also, petition of H. C. Hawes and others, against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. THISTLEWOOD: Petition of citizens of the twenty-fifth congressional district of Illinois, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. THOMAS of Ohio: Petition of citizens of the nineteenth congressional district of Ohio, against a rural parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. WALLACE: Petition of citizens of the seventh congressional district of Arkansas, against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. WEISSE: Petition of many citizens of the sixth congressional district of Wisconsin, against a parcels-post law; to the Committee on the Post Office and Post Roads.

Also, petition of many citizens of sixth congressional district of Wisconsin, asking for a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. WOOD of New Jersey: Paper to accompany bill for relief of John R. Fugill; to the Committee on Invalid Pensions.

SENATE.

WEDNESDAY, *January 25, 1911.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

SENATOR FROM UTAH.

Mr. SMOOT presented the credentials of GEORGE SUTHERLAND, chosen by the Legislature of Utah a Senator from that State for the term beginning March 4, 1911, which were read and ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed the bill (H. R. 31539) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a joint memorial of the Legislature of the State of Idaho, which was read and ordered to lie on the table, as follows:

Senate joint memorial 1.

To the honorable Senators and Representatives of the United States in Congress assembled:

Your memorialist, the Legislature of the State of Idaho, respectfully represents that—

Whereas a resolution is now pending in the Senate of the United States proposing to submit to the several States of the Union an amendment to the Constitution of the United States providing that Members of the United States Senate shall be elected by the direct vote of the people of their respective States instead of the legislatures, as is now provided: Therefore

Your said memorialist earnestly recommends the passage of said resolution, and represents that the State of Idaho desires the submission of such amendment to the various States for ratification at an early date.

The secretary of state of the State of Idaho is hereby instructed to forward this memorial to the Senate and House of Representatives of the United States, and copies of the same to our Senators and Representative in Congress.

—

The above senate joint memorial No. 1 passed the senate on the 16th day of January, 1911.

L. H. SWEETSER,
President of the Senate.

The above senate joint memorial No. 1 passed the house of representatives on the 17th day of January, 1911.

CHARLES D. STOREY,
Speaker of the House of Representatives.

I hereby certify that the above senate joint memorial No. 1 originated in the senate during the eleventh session of the Legislature of the State of Idaho.

CHAS. W. DEMPSTER,
Secretary of the Senate.

—

STATE OF IDAHO,
DEPARTMENT OF STATE.

I, W. L. Gifford, secretary of state of the State of Idaho, do hereby certify that the annexed is a full, true, and complete transcript of senate joint memorial No. 1, by Freehafer, relating to the election of United States Senators by the direct vote of the people.

Passed the senate January 16, 1911.

Passed the house January 17, 1911.

Which was filed in this office the 19th day of January, A. D. 1911, and admitted to record.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State.

Done at Boise City, the capital of Idaho, this 20th day of January, A. D. 1911.

[SEAL.] W. L. GIFFORD, *Secretary of State.*

The VICE PRESIDENT presented a petition of the congregation of the Second Congregational Church of Oak Park, Ill., praying for the enactment of legislation to prohibit the traffic in opium and cocaine, which was referred to the Committee on Foreign Relations.

He also presented the petition of A. L. Griffith, of Pell City, Ala., praying for the passage of the so-called old-age pension bill, which was referred to the Committee on Pensions.

Mr. JONES. I present a telegram from a committee of the house of representatives of the Legislature of the State of Washington, which I ask may be read and referred to the Committee on Pensions.

There being no objection, the telegram was read and referred to the Committee on Pensions, as follows:

OLYMPIA, WASH., *January 24, 1911.*

Senator JONES,
United States Senate, Washington, D. C.:

Stand by the Sulloway bill as it passed the House.

OLIVER BYERLY,
F. H. LESOURD,
NELSON RICH,
GEORGE F. WARD,
Committee on Soldiers' Home.

Mr. CRAWFORD. I present a telegram from the senate of the Legislature of the State of South Dakota, which I ask may be printed in the RECORD and referred to the Committee on Post Offices and Post Roads.

There being no objection, the telegram was referred to the Committee on Post Offices and Post Roads and ordered to be printed in the RECORD, as follows:

PIERRE, S. DAK.

Hon. COE I. CRAWFORD, *Washington, D. C.:*

The following resolution has been unanimously adopted by the senate:

"*Be it resolved*, That for the good of the public and the postal service and for the proper adjustment of the present difficulty, we request an investigation be had of the conditions and postal service of railway postal district No. 10, and the secretary of the senate be instructed to wire same to representatives in United States Congress."

And your consideration is respectfully requested.

GEO. O. VAN CAMP,
Secretary of Senate.

Mr. BURNHAM presented sundry telegrams in the nature of petitions of Gilman E. Sleeper Post, of Haverhill; of Almon B. White Post, of White River Junction; of Major Jarvis Post, of Claremont; of Post No. 17, of Dover; of Fred Smyth Post, No. 10, of Newport; and of Post No. 73, of Mountain View, Department of New Hampshire, Grand Army of the Republic; and of sundry veterans of the Civil War, of Portsmouth, all in the State of New Hampshire, praying for the passage of the so-called old-age pension bill, which were referred to the Committee on Pensions.

Mr. FLINT presented a petition of the Reading Club of Pacific Beach, Cal., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

Mr. KEAN presented a petition of the Monday Afternoon Club, of Passaic, N. J., praying that an investigation be made into the condition of dairy products for the prevention and spread of tuberculosis, which was referred to the Committee on Agriculture and Forestry.

He also presented the petition of Edward Q. Keasbey, of Newark, N. J., and a petition of the New Jersey State Federation of Women's Clubs, praying for the passage of the so-called children's bureau bill, which were ordered to lie on the table.

He also presented the memorial of H. M. Dutcher, of Camden, N. J., remonstrating against the enactment of legislation proposing to change the name of the Marine-Hospital Service, etc., which was referred to the Committee on Public Health and National Quarantine.

He also presented the petition of E. A. Goodell, of Arlington, N. J., and the petition of M. Williams, of Orange, N. J., praying for the passage of the so-called old-age pension bill, which were referred to the Committee on Pensions.

He also presented a memorial of the Christian Science Society of Hoboken, N. J., remonstrating against the establishment of a national department of health, which was referred to the Committee on Public Health and National Quarantine.

He also presented a memorial of the American Federation of Catholic Societies, of St. Louis, Mo., remonstrating against any appropriation being made for the extension of the work of

the Bureau of Education, which was referred to the Committee on Education and Labor.

He also presented a memorial of the Tenafly Publishing Co., of Tenafly, N. J., and the memorial of Henry F. Schmidt, of Orange, N. J., remonstrating against the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which were referred to the Committee on Post Offices and Post Roads.

He also presented petitions of Protection Lodge, No. 2, of Phillipsburg; Local Lodge of Jersey City, Local Lodge of Newark, and Local Lodge No. 333, of Jersey City, all of the Brotherhood of Railroad Trainmen, in the State of New Jersey, praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post Offices and Post Roads.

He also presented the petition of A. B. Smith, of Salem, N. J., and the petition of J. V. Righter, of Salem, N. J., praying for the enactment of legislation providing for the discontinuance of the grade of post noncommissioned officers and creating the grade of warrant officers in lieu thereof, which were referred to the Committee on Military Affairs.

Mr. ELKINS presented a petition of sundry citizens of Elkins, W. Va., praying for the enactment of legislation making eight hours a day's work for clerks and carriers in the postal service of the Government, which was referred to the Committee on Education and Labor.

He also presented a memorial of Local Council No. 37, United Commercial Travelers of America, of Wheeling, W. Va., remonstrating against the passage of the so-called parcels-post bill, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Black Diamond Lodge, No. 9, Brotherhood of Railway Trainmen of America, of Bluefield, W. Va., and a petition of the American Federation of Labor, praying for the repeal of the present oleomargarine law, which were referred to the Committee on Agriculture and Forestry.

He also presented the petition of John Marshall, of Parkersburg, W. Va., praying for the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Huntington Division, No. 190, Brotherhood of Locomotive Engineers, of Huntington, W. Va., and a petition of the general grievance committee of the Brotherhood of Railroad Trainmen, of Roanoke, W. Va., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post Office and Post Roads.

He also presented petitions of the Smith-Race Grocery Co., of Fairmont; of Hagen, Ratcliff & Co., of Huntington; and of the Piedmont Grocery Co., of Piedmont, all in the State of West Virginia, praying for the enactment of legislation relative to the tax on white phosphorus matches, which were referred to the Committee on Finance.

He also presented a memorial of the Lowe Bros. Co., of Dayton, Ohio, remonstrating against the passage of the so-called Heyburn paint bill, which was ordered to lie on the table.

He also presented an affidavit in support of the bill (S. 4540) granting a pension to Francis Redmond, which was referred to the Committee on Pensions.

He also presented a memorial of the Niagara Alkali Co., of Niagara Falls, N. Y., remonstrating against the imposition of a duty on muriate of potash and praying that a duty be placed on caustic potash, which was referred to the Committee on Finance.

Mr. DEPEW presented a petition of the Retail Grocers' Association of Rensselaer, N. Y., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented petitions of the Amalgamated Society of Carpenters and Joiners, of New York; of Metropolitan Lodge, No. 598, Brotherhood of Railroad Trainmen, of New York City, N. Y.; and of the legislative board, Brotherhood of Railroad Trainmen, of New York, praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Claims, to which was referred the bill (H. R. 25679) for the relief of the Sanitary Water-Still Co., reported it without amendment and submitted a report (No. 1004) thereon.

He also, from the Committee on Finance, to which was referred the bill (S. 9970) to provide for the refunding of certain moneys illegally assessed and collected in the district of Utah, reported it without amendment and submitted a report (No. 1005) thereon.

Mr. DAVIS, from the Committee on Claims, to which was referred the bill (H. R. 25074) for the relief of the owners of the schooner *Walter B. Chester*, reported it without amendment and submitted a report (No. 1007) thereon.

Mr. CRAWFORD, from the Committee on Claims, to which was referred the bill (S. 974) for the relief of Albert S. Henderer, reported it with an amendment and submitted a report (No. 1008) thereon.

Mr. BURNHAM. I am directed by the Committee on Claims, to which was referred the bill (H. R. 16133) for the relief of Samuel L. Barnhart, to report it adversely. I ask that the bill be indefinitely postponed, as the subject matter contained therein was included in the general deficiency appropriation act of June 25, 1910.

The VICE PRESIDENT. The bill will be postponed indefinitely.

DESERT-LAND ENTRIES.

Mr. JONES. From the Committee on Public Lands I report back favorably without amendment the bill (S. 10318) authorizing the Commissioner of the General Land Office to grant further extensions of time within which to make proof on desert-land entries, and I submit a report (No. 1006) thereon. The bill simply provides that the Commissioner of the General Land Office may, on a proper showing, grant a further extension of not to exceed three years to make proof on desert-land entries. I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The bill will be read.

The Secretary read the bill, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that where an extension of time has been granted to entrymen under the desert-land laws, in accordance with section 3 of the act entitled "An act limiting and restricting the right of entry and assignment under the desert-land law and authorizing an extension of time within which to make final proof," approved March 28, 1908, and the entryman shall show to the satisfaction of the Commissioner of the General Land Office that, because of some unavoidable delay in the construction of irrigating works intended to convey water to the lands embraced in his entry, he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time of such extension, he shall, upon filing his corroborated affidavit with the land office within the district of which said land is located, setting forth the facts, be allowed a further extension of not to exceed three years, within the discretion of the Commissioner of the General Land Office, within which to furnish the proof as required by the desert-land laws.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CLARKE of Arkansas:

A bill (S. 10431) to authorize the Argenta Railway Co. to construct a bridge across the Arkansas River between the cities of Little Rock and Argenta, Ark.; to the Committee on Commerce.

By Mr. JONES:

A bill (S. 10432) for the relief of Thomas Huggins; to the Committee on Military Affairs.

A bill (S. 10433) granting an increase of pension to Robert H. Parker; to the Committee on Pensions.

By Mr. FRYE:

A bill (S. 10434) regulating the appointment of collectors of customs and other officials; to the Committee on Commerce.

By Mr. LODGE:

A bill (S. 10435) providing for the quadrennial election of members of the Philippine Legislature and Resident Commissioners to the United States, and for other purposes; to the Committee on the Philippines.

By Mr. OLIVER:

A bill (S. 10436) to extend the time for the further construction of the Valdez, Marshall Pass & Northern Railroad, and for other purposes; to the Committee on Territories.

A bill (S. 10437) to correct the military record of David C. Stewart (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 10438) to amend an act amendatory of the act approved April 23, 1906, entitled "An act to authorize the

Fayette Bridge Co. to construct a bridge over the Monongahela River, Pa., from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County;" to the Committee on Commerce.

A bill (S. 10439) granting an increase of pension to Anna K. Rhoades; to the Committee on Pensions.

By Mr. DIXON:

A bill (S. 10440) for the relief of John Lynn (with accompanying paper); to the Committee on Military Affairs.

By Mr. WARNER:

A bill (S. 10441) for the relief of Sanger & Moody; to the Committee on Claims.

By Mr. DICK:

A bill (S. 10442) granting an increase of pension to Zenas Funk; to the Committee on Pensions.

By Mr. HALE:

A bill (S. 10443) for the relief of Lewis Myshrall (with accompanying paper); to the Committee on Military Affairs.

By Mr. SMOOT:

A bill (S. 10444) granting an increase of pension to John W. A. Lawson (with accompanying papers); to the Committee on Pensions.

By Mr. FRAZIER:

A bill (S. 10445) granting an increase of pension to Mary V. Webster; to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 10446) granting a pension to Francelia L. King (with accompanying papers); to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 10447) authorizing an investigation with the view to the establishment of a general parcel post; to the Committee on Post Offices and Post Roads.

A bill (S. 10448) granting a pension to Adolph Roeusch (with accompanying paper); to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 10449) for the relief of George T. Read; to the Committee on Claims.

A bill (S. 10450) to amend the provisions of the act of March 3, 1885, limiting the compensation of storekeepers, gaugers, and storekeeper-gaugers in certain cases to $2 a day, and for other purposes; to the Committee on Finance.

By Mr. CURTIS:

A bill (S. 10451) to authorize the Manhattan City & Interurban Railway Co. to construct and operate an electric railway line on the Fort Riley Military Reservation, and for other purposes; to the Committee on Military Affairs.

By Mr. NELSON:

A bill (S. 10452) to authorize the Minnesota River Improvement & Power Co. to construct dams across the Minnesota River; to the Committee on Commerce.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. JONES submitted an amendment proposing to increase the salary of one assistant employed in preparing for publication the American Ephemeris and Nautical Almanac, Navy Department, from $1,800 to $2,200, intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. PERKINS submitted an amendment proposing to appropriate $100,000 for transforming the transport *Thomas* from a coal burner into an oil burner, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. LODGE submitted an amendment proposing to appropriate $10,000 to pay the necessary expenses of delegates to the general assembly of the International Institute of Agriculture, Rome, 1911, intended to be proposed by him to the diplomatic and consular appropriation bill, which was referred to the Committee on Foreign Relations and ordered to be printed.

Mr. MARTIN submitted an amendment relative to the improvement of the Potomac River at Colonial Beach, Va., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

ABANDONMENT OF NAVY YARDS AND NAVAL STATIONS.

Mr. TILLMAN. Mr. President, I submit a resolution calling for information. Some time ago the Secretary of the Navy advised the abandonment and sale of several of the naval establishments. When the naval appropriation bill comes up, if I feel physically able, I shall present some reasons showing why this proposed policy of abandoning the entire Gulf and having no naval establishment south of Charleston is unwise; but it is necessary to have information. Therefore I ask that the resolution which I send to the desk may be passed.

The Secretary read the resolution (S. Res. 327), as follows:

Resolved, That the Secretary of the Navy be, and he is hereby, instructed to send to the Senate detailed information concerning the navy yards and naval stations at New Orleans, Pensacola, Port Royal, and New London, as follows:

First. The number and character of buildings.

Second. Their original cost and the amount expended for repairs.

Third. Their present condition and the uses to which they are being put at this time.

Fourth. If there is any machinery, the amount and value thereof.

Mr. KEAN. I suggest that the word "instructed" be changed to "directed."

Mr. TILLMAN. That is agreeable to me. All I want is the information. I ask that the resolution be modified in that respect.

The VICE PRESIDENT. The resolution will be so modified.

The resolution as modified was considered by unanimous consent and agreed to.

HOUSE BILL REFERRED.

H. R. 31539. An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes, was read twice by its title and referred to the Committee on Post Offices and Post Roads.

OCEAN MAIL SERVICE AND PROMOTION OF COMMERCE.

The VICE PRESIDENT. The morning business is closed. Without objection, the Chair lays before the Senate the unfinished business, Senate bill 6708, on which the Senator from New York [Mr. ROOT] gave notice he would address the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 6708) to amend the act of March 3, 1891, entitled "An act to provide for ocean mail service between the United States and foreign ports and to promote commerce."

Mr. ROOT. Mr. President, I wish to make a few remarks regarding the amendment in the nature of a substitute offered by the Senator from New Hampshire [Mr. GALLINGER] to Senate bill 6708, to amend the act of March 3, 1891, entitled "An act to provide for ocean mail service between the United States and foreign ports and to promote commerce."

This bill has been called a subsidy bill. It does not present itself to me in that light. I submit to the Senate that that is not its true character. It seems to me to be, and I submit that it is, merely a provision to enable the Government of the United States to perform its plain duty to the people of the United States under the Constitution.

Our Government undertakes to carry the mails. It makes the carrying of the mails a monopoly in the hands of the Government, and it forbids, under heavy penalties, any interference by private citizens in the performance of that service. The Government, of which we are a part, is bound to make the postal service, which it holds in its own hands and from which it excludes all private enterprise, efficient and competent to accomplish its ends.

For the purpose of doing that, Congress passed, in 1891, the act of March 3 of that year entitled "An act to provide for ocean mail service between the United States and foreign ports and to promote commerce." It provided that the Postmaster General might enter into contracts for a term not less than five nor more than 10 years in duration, with American citizens, for the carrying of mails on American steamships between ports of the United States and ports in certain foreign countries.

It provided that before making any such contracts the Postmaster General should give public notice by advertisement in the daily papers, describing the routes, the time when the contract would be made, the duration, the size of the steamers, the number of trips each year, and various other details.

It provided that the vessels employed in this service should be American vessels; that during the first two years of the contract one-fourth of the crew should be citizens of the United States; that during the next three years one-third of the crew should be citizens of the United States; and that during the remainder of the time of the contract at least one-half should be citizens of the United States.

It provided that the steamers employed might be taken and used by the United States as transports or cruisers upon payment to the owners of the fair actual value at the time of taking, and that if there should be disagreement as to the fair value, that should be fixed by arbitration.

That has been the law for 20 years. It has been executed; the Postmaster General has advertised for contracts; the advertisements have been answered, and contracts have been made. Mails of the United States to foreign countries have been carried under such contracts, carried with speed, with certainty, with safety, and to the satisfaction of the people of the United States. Steamers operating under these statutes are now plying between ports of the United States and ports

of Europe, between ports of the United States and ports of the West Indies and of the Caribbean, performing, in behalf of the United States Government, this duty which the Government owes to the citizens of this country.

But in the statute there were imposed certain limits on the compensation which the Postmaster General was permitted to pay for rendering this service. There was a provision dividing the steamers into four classes, the first class maintaining a speed of 20 knots an hour; the second, of 16; the third, of 14; and the fourth, of 12 knots. There was a limitation to the payment of $4 a mile per ton for the ships of the first class, $2 for ships of the second class, $1 for ships of the third class, and two-thirds of a dollar for those of the fourth class.

It appears by actual experience under this statute that the compensation which was allowed, while adequate to secure the service between this country and Europe and between this country and the West Indies and the Caribbean ports, was insufficient to secure the service between this country and the more distant ports of South America and of Asia. This bill merely provides that the limit which proved in experience to be too low to secure the service under public competition for the distant South American ports shall be made high enough to secure that service. While the limit that the Postmaster General is authorized to pay for this service is raised from $2, that 20 years' experience has shown to be insufficient to secure it, to $4, which probably will be sufficient—while that limit is raised, there is another limit imposed, and that is in the provision that the total amount paid for the ocean mail service shall not exceed the total amount received by the Government for rendering the ocean mail service.

Talk about subsidies! Talk about taxing the people for the benefit of a private interest, when this bill provides nothing else than that the Government of the United States shall honestly use the money that it receives from the American citizens engaged in foreign trade for carrying their mail to give them an efficient service!

What right, Mr. President, have the people of the interior of the United States—what right have the people of Iowa or the people of Minnesota or the people of Missouri to make a profit out of the people of New York and Boston and Philadelphia and Baltimore and San Francisco and New Orleans and all the great commercial country that lies behind those seaports—what right have the people of the interior of this country to make a profit out of these seaboard States and all the great production that lies behind them by refusing to apply the money that is paid for our ocean mails to rendering an efficient ocean mail service?

I have not looked at the figures for the last year, but three or four years ago I did examine them, and I found we made a profit of over $4,000,000 of the money that the merchants of New York and our other seaport cities paid for conducting the foreign business of the country, and we did not give them a decent or a respectable ocean mail service. Let me call your attention to one bit of testimony—testimony which relates to a point which is of very material importance. The United States consul a Bahia, one of the great commercial seaports of Brazil, in his annual report for 1904, says:

> I have to reiterate my oft-repeated report of the need for an American steamship line. The mail service between the United States and this section of Brazil during the year just past has become much worse than heretofore, due to the withdrawal of one or two monthly boats. As a result of the cargo offering here for the United States and the frequent call of vessels to get it, coupled with the fact that Brazil requires all steamers to take mail, there have been frequent calls of vessels to get mails from here, but there is only one regular boat bringing mails from New York. Between times letters are sent hither from New York by various roundabout ways. This has virtually paralyzed the mail service. For this reason it is frequently the case that mail sent from New York in the middle of a month arrives here days after the mail leaving New York on the first of the ensuing month. This causes great prejudice to business, as the mails arriving last often have bills of lading and customhouse documents for goods arriving by the prior steamer, necessitating extra expense, vexatious delays, and great trouble to withdraw from the customhouse here, which seriously hurts our trade.

Of course, Mr. President, we can not expect trade to be conducted and trade to increase unless we have certain and swift and efficient mail intercourse. We can not expect the merchants of Buenos Aires and Rio de Janeiro and Pernambuco and Bahia and Montevideo to purchase goods from the producers of the United States when they can not get a letter here and an answer back within any definite and certain and foreknown time. The evil which this consul reports as regarding Bahia is an evil that has existed and now exists throughout the seaboard of the South American countries both on the Atlantic and the Pacific Oceans. The failure of the United States Government honestly to devote to the carrying of the ocean mails the money that our people pay for the carrying of those mails stands in the way of the development of our trade with all those countries.

Gentlemen say that the paying of adequate compensation to induce a carrying of the mails by American steamers would not lead any steamship to enter the service. Gentlemen say that it would not add one ship to the merchant marine of the United States. We do know that it has added ships to the merchant marine plying to Europe and plying to the Caribbean. But assume that the prophecy as to this measure is true, what will be the result? The result will be that not a dollar will be paid under the bill. We shall simply have tried an experiment that costs nothing. Why not try the experiment and see whether these gentlemen are right, or whether those who believe as I believe, that the giving of adequate compensation will produce American mail communication with the South American ports are right, inasmuch as, if we are wrong and they are right, the experiment will cost nothing, while if they are wrong and we are right, the experiment will be a success and remove from our Government the stigma that rests upon it now because of its failure to perform its duty to the people of the United States?

The peculiarity of this bill is that not one dollar can be paid out under it unless it succeeds in putting an American steamship on the water to carry the American mail. It is not only unfair, it not only approaches the verge of dishonesty for our Government to refuse to apply the money that is paid for ocean mails to the carrying of ocean mails up to the point of efficiency, but we are in a position which is undignified and unseemly.

Mr. BRISTOW. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Kansas?

Mr. ROOT. Certainly.

Mr. BRISTOW. I should like to inquire how the Senator ascertained the amount of money that is paid for the foreign mail.

Mr. ROOT. I ascertained it by application to the Postmaster General.

Mr. BRISTOW. Well, but how did the Postmaster General ascertain it?

Mr. ROOT. I shall have to refer the Senator from Kansas to the Postmaster General.

Mr. BRISTOW. I am perfectly willing to make the inquiry, but I supposed the Senator probably had that information at hand, since he was using it with great vigor here. If the Senator will permit me, I should like to suggest——

Mr. ROOT. I would rather not yield for suggestions, Mr. President. I will very cheerfully yield for a question, and I should be very glad to be instructed at any time by my friend the Senator from Kansas except when I am trying to make some connected remarks.

I have said that it was undignified and unseemly that the United States should continue having its mails carried as they are carried now. We are dependent upon the operations of foreign lines for our communication with our own ministers and ambassadors and consuls. We have no control ourselves over the movement of our public dispatches, and at any time the arrangements of foreign steamships, made for the purpose of promoting foreign trade and foreign convenience, may completely disconcert the plans and frustrate the purposes of our own postal department in regard to our communications with these foreign countries.

But, Mr. President, there are in addition to the considerations which I have mentioned certain incidental advantages. Before passing to them I will make a remark which is suggested by the question of the Senator from Kansas.

The Senator asked how I learned the amount that the Government received from the carriage of ocean mail. The observation which that suggests to me is that whether great or small, whether the figures given to me a few years ago by the Postmaster General were right or wrong, whether the amount paid was more than those figures or less, under this bill not one dollar can be paid out of the Treasury unless an equivalent dollar has been received for the ocean mail service. So that if it should be that the Postmaster General is all wrong, the bill goes for nothing. If he should be partly wrong, then to the extent that he is wrong there is a greater limitation upon the amount that can be expended under the bill.

The bill is a bill that can not result in taxation upon the people of the United States to accomplish its purpose. It can not do anything but apply what we receive for the service to the rendering of the service.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Iowa?

Mr. ROOT. Certainly; for a question.

Mr. CUMMINS. It is for a question. Does the Senator from New York commit himself to the proposition that it is the bounden duty of the Government of the United States to carry to foreign countries all the mail destined to those countries originating in the United States?

Mr. ROOT. I think it is the duty of the United States.

Mr. CUMMINS. And what proportion of the mail originating in the United States and destined to foreign countries is now carried in American ships?

Mr. ROOT. I can not tell the Senator that. It is a very small proportion. Of course it varies with the different countries. To most countries none is carried in American ships.

Mr. CUMMINS. One more question, and I shall not interrupt the Senator longer. I assume, therefore, it is the view of the Senator from New York, and those who support this measure on the grounds stated by him, that the Government of the United States ought immediately, or as soon as practicable, to make such arrangements and pay such compensation as would result in carrying to foreign countries all the mail destined to those countries originating in the United States.

Mr. ROOT. Does the Senator mean carry in American ships?

Mr. CUMMINS. In American ships.

Mr. ROOT. No; I do not say that. I do not think that, Mr. President. I think the Government of the United States ought immediately to make such arrangements that it can secure an effective carrying of the mails from the United States to foreign countries, and to all foreign countries whose trade and communication are of importance, and that if it is necessary, in order to secure such effective service, that we should make contracts with American ships, then I say we ought immediately to make contracts with American ships. If, however, service can be secured—competent, effective, and satisfactory—without making such contracts, then I do not think it is our duty, for the mere sake of having them in American ships rather than in foreign ships, to go on and put them in American ships.

I think the potential value of a provision which enables the Government to put American ships into the service will operate everywhere to bring effective service from foreign ships, and if it does not operate to bring such an effective service from foreign ships, then I think the power should be exercised and American ships put on the routes.

Mr. CUMMINS. Does the Senator from New York know whether the Postmaster General has made any attempt to secure such arrangements as would, in foreign ships, result in the speedy and continuous transmission of the mails between the United States and the ports of South America?

Mr. ROOT. I understand that he has. I have frequently conversed with the Postmaster General upon the subject. He has told me of many efforts that he has made. I know of it only by the information which I have received from the Postmaster General to that effect.

Mr. CUMMINS. Does not the Senator believe that the payment to foreign ships of a small part of the compensation here provided for would result in the correction of whatever trouble there now is with regard to carrying the mails to South America?

Mr. ROOT. I do not.

Mr. BACON. Will the Senator from New York permit me to ask him a question for information as to his views?

Mr. ROOT. Yes.

Mr. BACON. Does the Senator construe the matter contained in the last proviso, which he is now pressing with great force, to mean that no more shall be paid to the owners of these ships than is received from the mail service on those particular ships, or does he think it means the general foreign mail service of the United States?

Mr. ROOT. The general foreign mail service.

Mr. BACON. The general foreign mail service? It is not limited?

Mr. ROOT. No; not to the particular countries to which the particular mail is carried.

Mr. BACON. I will say to the Senator that if it could be limited to the particular ships the argument would be very much stronger, in my opinion.

Mr. ROOT. I do not think it would be practicable, and I do not think it would be effective, because the essence of such an arrangement is to enable steamship lines to create an agency for the building up of trade, and the receipts from the mails on a particular line would inevitably at the beginning be less than the cost of carrying the mails, just exactly as in our own internal arrangements the receipts upon our rural free-delivery lines are much less than the cost of delivering the mails. But there is a continual increase, arising from the operation of the Rural Free Delivery Service, in the receipts of the Post Office Department along those lines. In my view the payment of compensation which is sufficient to induce American steamers to enter into contracts for carrying American mails to these distant countries rests upon precisely the same basis as our appropriation for the rural free delivery, but there is put upon it here a limitation that we do not put upon the rural free delivery; that is, taking the ocean mail service as a whole, no greater amount shall be expended for ocean mail service than is received.

Mr. BACON. If the Senator will pardon me, the Senator presented with very great force the proposition that no one had the right to object to the devotion of the revenues received from this service to the encouragement of the service if there was no possible taxation to result therefrom, and it was with that view, and because I was so greatly impressed with the presentation of the Senator, that I sent for the bill that I might read the words of it to see how far the provision would sustain the contention of the Senator in that particular.

I am very frank to say that if the bill can be framed in such a way that the expenditure can not exceed what is received for the mail service from those particular lines the Senator will get an accentuated strength, in my opinion, that he does not now command.

Mr. ROOT. I do not think that would be practicable. But, Mr. President, our American trade must be taken as a whole. Our American producers are pushing the sale of their products all over the world. The cotton mills of Georgia and of South and North Carolina are undertaking to sell their products everywhere that they can find a market. The makers of agricultural implements are undertaking to sell their machines everywhere. Each manufacturing establishment has its correspondents in all quarters of the globe. The benefit to our country of promoting trade is one; the prosperity of American producers is one; facility for the conduct of American foreign business is one. You can not divide it into little parcels here and there. You promote it as a whole, or you leave it to struggle and dwindle as a whole. And the men who will be affected by this are the men who are engaged not merely in trade or attempts to trade and correspond with Buenos Aires or Montevideo, but they are men who have correspondents all over the world. You are promoting the prosperity of this industrial establishment, and that, and that, and that, all the guild of producers in each line of production—of the whole body of American business—and it is not practicable to divide and take this business in detail. In this great business of carrying the ocean mails, through which the foreign trade of the United States is carried on, when you say that the money received from it shall be applied to that business, and that no more shall be applied, you have a clear-cut, practicable legislative provision, reasonable, saving the people from taxation, benefiting alike all American producers to the exact extent of the money they pay for the service.

Mr. President, there are some incidental advantages which flow from the adequate performance of this duty.

Mr. BACON. Will the Senator permit me, without undue interruption, to ask him his view on the line he is about to leave?

Mr. ROOT. Certainly.

Mr. BACON. Of course, the anticipation is that if these lines of steamships can be put upon the sea between ports of this country and South America there will be a very large increase of business and a very large increase of mail. I presume I am correct in that assumption; am I not?

Mr. ROOT. Yes; I think so.

Mr. BACON. That is one of the anticipated results. I simply want to ask the Senator, without delaying him too long, whether in case there should be a law enacted providing for this mail remuneration or subsidy—whatever term might be deemed best for it—with a provision that it should not exceed the amount received for the carriage of the mails on those particular lines, there would not be such reason to believe in a development sufficient to bring it up to the desired amount as to induce those who are interested in that business to undertake it with that anticipation as the result?

Mr. ROOT. I do not think that it would. I do not think that anyone who was prudent enough to have any money to invest would go into a doubtful transaction of that kind. They would not take the chances.

Mr. BACON. They would not, then, have confidence in the belief that it would so result?

Mr. ROOT. They would not have confidence in the belief that increase of trade would come before their capital was sunk in the enterprise, because nobody would be willing to put in capital for the development of a trade in which they stood to lose everything in case the trade did not develop as soon as they may have anticipated.

I say there are certain special incidental advantages to be attained by the performance of this duty. I do not put them first, but it is perfectly in accordance with precedent that they should be considered. We use our power, Mr. President, to regulate commerce by means of making appropriations for the improvement of rivers and harbors, in order to secure the advantage incidental to that regulation, by increasing the commerce of a particular port or of a particular water route. We have used our power of taxation to produce a result regarding the manufacture and sale of oleomargarine. We have used our power to impose duties, from the beginning of our Government, in such a way as to produce as an incidental result the protection of American manufactures. There is no practical difference between the great political parties of the United States upon the wisdom of our continuing to do it. There are differences about the extent and the way in which it shall be done; but when we impose a duty upon rough lumber no one can say we do not have in mind the incidental advantage of protecting the forests of the West and of the South.

I say that in the performance of the duty of the United States to render an effective mail service to the commercial world of the United States there are certain special incidental advantages to be obtained going beyond the mere carrying of the mails—incidental advantages, first, in building up American commerce and, second, in promoting the great political policies of the United States.

The more distant countries of South America which will be reached by the lines proposed in case this experiment succeeds at all and any money is paid are countries which occupy a peculiar relation to the world of production and trade. It is but a few years since those countries were in the stage of militarism, since continual revolutions and strife impeded and prevented their production and prevented their purchasing power. But within the past generation those great countries of South America have passed out of the stage of militarism into the stage of industrialism. They are on the threshold of a vast productive and purchasing capacity.

The trade of South America has already risen within the past few years to $1,665,000,000. These countries, Mr. President, which but a few years ago were the theater of strife and bloodshed have now taken their place among the great producing nations of the earth.

The trade of South America increased between 1897 and 1909, the imports from $334,000,000 to $698,000,000 and the exports from $376,000,000 to $966,000,000. The total trade increased from $712,000,000 to $1,665,000,000. The increase of imports was 109 per cent, of exports 155 per cent, and of the total trade 133 per cent. The trade of South America already is more than treble, almost quadruple, the entire trade of China. The Argentine Republic alone had last year a trade of $700,000,000; Brazil a trade of $488,000,000.

So suddenly has this come that the trade of these countries is an open field for the competition of the world. Their vast material wealth of agriculture, of mines, and forests is only just now beginning to yield to them the means of consuming and purchasing power such as has never been equaled on earth, except in this country of ours. It is still an open field for us to enter upon, and at the same time, coincidentally with the opening of this great new field for consumption of our products, we have risen to a point where we are able to enter upon foreign trade. We have risen to a point where we require to enter upon foreign trade. We are to-day in a situation where we can see immediately before us the point, the line, where we shall cease to maintain the balance of trade by the export of food products.

We are approaching the point where we shall consume all the food that we produce, and we are drawing toward the point where more and more we shall use our own cotton in making in our own mills the textile fabrics that are produced from cotton. When we reach that point where are we going to pay for our enormous purchases abroad but by the export of manufactured products, and where are we going to sell them?

An unwise and unintelligent administration of the laws relating to the people of the Chinese Empire has led to the reduction of our trade with China to a comparatively insignificant amount. While our American diplomacy has been holding open the door of the Orient American administration of the exclusion laws has been depriving American trade of the incentive to enter the open door by taking away the willingness of the Chinese people to purchase in the American markets.

But here in South America is the opportunity. Not only is it true that this is a great new field of growing purchasing power, but the characteristics of those countries differ so widely from ours and the characteristics of the people differ so widely from ours that we are not liable to compete. We furnish what they do not produce. They have but little iron. They have but little of that inventive capacity which characterizes our people. They are polite, refined, educated, optimistic, adapted to the life of agriculture. We lack many of their admirable qualities and they lack some of ours. They have not the tendency toward invention and manufacture that we have, and there the enormous purchasing power of their agricultural and mineral wealth lies at our hand to supplement the genius of our people in constructive and productive enterprise. More than that, we are and have been for almost a century allied to those people by ties of political interest and long-standing friendship. They remember to-day in the cities of the South the eloquence of Henry Clay, the diplomacy of Richard Rush, the statesmanship of John Quincy Adams and James Monroe. They remember it with gratitude and demonstrated appreciation. But for that long period since we aided in the attaining of South American independence we have permitted ourselves to be cut off from all that intercommunication which is the necessary process of growing personal friendship and relation. It is impossible that people who never meet should become friends or that trade between them should grow. If people wish to travel between this country and Rio de Janeiro or Buenos Aires or Montevideo the best thing they can do is to go to Europe and come across on the good European lines.

The people of Argentina and Brazil respond with the most generous and delightful appreciation to every advance that we make. They can not understand why the Government of the United States refuses to establish direct communication between them and the United States.

Now, Mr. President, there is such a thing as the duty of a government to promote the trade of a nation. There is such a thing as a duty resting upon every branch of a government to consider the relation of its action in details to the great policies of the government.

My deepest interest in the fate of this measure is not so much that I deplore the injustice that is visited upon our commercial people by inefficient mail service, not so much the desire to promote American trade, important as I know that to be, not so much the material advantages to which I think this bill will lead, as it is that I wish the Senate, the Congress of the United States, to be guided in its action by a wise understanding of and sympathy with the great political policies of the United States in its relations to the other Republics of the Western World, a policy to which we were committed by the great declaration of 1823, a policy which we are bound to follow by practical measures, or we shall be compelled to abandon it by the unwillingness of the nations to whom it applies to submit to the continuance of the relation that it creates with an unfriendly power.

Everything which tends to promote the friendship of the people of the United States with the people of Latin America, everything which tends to bind them together by ties of trade, of interest, of personal relation, makes so much for the continuance and the perpetuity of the great and essential policies of our Government to which we have been committed for more than three-quarters of a century.

I would vote for this bill gladly if I knew there would be no other object attained except an assurance to the people of the Argentine and Brazil and to the people of Chile and of Peru that the people of the United States desire a deeper friendship and a more complete intercourse between us.

Senators, it is no subject upon which to deal with cheeseparing economy; it is no subject upon which to rest satisfied with a feeling against a general course of conduct which may be called subsidy; it is a measure not merely of justice and of material advantage, but it is a measure of substantial and of vital importance in promoting the most important of all the foreign relations of the United States.

I have not spoken, Mr. President, of the fact that foreign steamship lines, which are now our sole dependence for the carrying of our mails between this country and the great ports of South America, are combined in an agreement to increase prices—the kind of agreement that we call a trust; and I regret to see that good old word, which once had such a noble meaning, perverted to such a use, but it has come and we must accept it. I have not referred to that fact, because I understand that the Senator from Massachusetts [Mr. LODGE] has presented the facts quite fully to the Senate. I should like, however, to put in one bit of evidence upon that subject which, perhaps, the Senator from Massachusetts did not present; at all events, if he did, it will do no harm to repeat it. I read from Lloyd's Shipping Gazette Weekly Summary of February 21, 1908, a standard authority. Says the Gazette:

Our Hamburg correspondent, under date of February 15, 1908, writes as follows:

"Through the agency of Herr Ballin the rate war which began about a year ago in the trade between North America and Brazil has been adjusted. The contending parties were the Hamburg-South American

Co. and the Hamburg-American Line on the one side, and Messrs. Lamport & Holt and the Prince Line on the other side. The companies concerned in this trade have now formed a community of interests, which will last for several years. It is stated that the demands of the German companies during the negotiations were fully acknowledged and granted."

Our Liverpool correspondent, telegraphing on Monday, said:

"An agreement has been come to between Messrs. Lamport & Holt and the Hamburg-American Line and the Hamburg-South American Co., ending the rate war in the coffee trade between Brazilian ports and the United States and Hamburg. The agreement is a mutually satisfactory one and covers the working agreements in both trades."

As a result of the formation of that combination in the nature of a trust, every breakfast table of the United States is taxed. We bought last year $67,000,000 worth of coffee from Brazil, and every cup of coffee that was made at any breakfast table in the United States out of that $67,000,000 worth paid toll to this trust formed in Europe to put up the cost of transporting to the United States the coffee of Brazil.

The gentleman who is reported here as having effected this arrangement, Herr Ballin, one of the most able and forceful men in the business world of Europe, is the same gentleman whose signature appears at the foot of the trust agreement made in Europe in regard to the immigration service between the United States and Europe upon which the Attorney General has just filed a bill in equity under the Sherman antitrust law. Fortunately, it happens that in the trade between the United States and Europe there is an American line built up and maintained by adequate compensation for carrying the mail under the act of 1891, and because there is that American line we can control and frustrate any trust combination made in regard to the carriage of immigrants or of freights between this country and Europe, but the combination made by the same man to tax our trade with the great ports of South America is beyond our control, because the act of 1891 has not yet been made applicable to that trade.

Mr. President, I observe that the Senator from New Hampshire [Mr. GALLINGER] has given notice of a further amendment to the substitute relating to lines to the Orient. It was not within the scheme of the remarks that I had mapped out to touch upon that subject, but I will make one observation regarding it, and that is, that we are coming to have less and less participation in the trade of the Pacific. The "open door" is becoming of less and less importance to us. American shipping on the Pacific is being driven off the sea by the subsidized lines of Japan, and it will soon be the case that America will end at low-water mark on the shores of California and Oregon, and Japan will begin at the three-mile line from those shores. I should be glad to see something done by the American Government to prevent that most undesirable result.

INDIAN APPROPRIATION BILL.

Mr. CLAPP. I ask the Senate to resume the consideration of House bill 28406, being the Indian appropriation bill.

By unanimous consent, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 28406) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1912.

Mr. CLAPP. Mr. President, several Senators desired to be notified when the Indian appropriation bill was taken up. I think the easiest way to notify them is to have a call of the Senate; and so I suggest the want of a quorum.

The PRESIDING OFFICER (Mr. MCCUMBER in the chair). The absence of a quorum having been suggested, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Clarke, Ark.	Jones	Richardson
Bailey	Crane	Kean	Root
Bankhead	Crawford	Lodge	Scott
Bradley	Cullom	McCumber	Simmons
Brandegee	Curtis	Martin	Smith, Mich.
Briggs	Davis	Nixon	Smoot
Bristow	Dillingham	Overman	Stephenson
Brown	du Pont	Owen	Stone
Bulkeley	Flint	Page	Taliaferro
Burnham	Frazier	Paynter	Terrell
Burrows	Frye	Penrose	Tillman
Burton	Gamble	Percy	Warner
Carter	Gore	Perkins	Warren
Chamberlain	Guggenheim	Piles	
Clapp	Johnston	Purcell	

Mr. BURNHAM. I wish to say that my colleague, the senior Senator from New Hampshire [Mr. GALLINGER], is unavoidably absent.

Mr. SCOTT. I desire to state that the junior Senator from West Virginia [Mr. ELKINS] was unavoidably called from the city to-day.

Mr. SMOOT. Mr. President, I wish to say that my colleague, the Senator from Utah [Mr. SUTHERLAND], is detained from the Senate on account of illness.

The PRESIDING OFFICER. Fifty-eight Senators have responded to the roll call. A quorum of the Senate is present.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, under the head of "Wyoming," on page 41, after line 23, to strike out:

SEC. 24. For care of buildings, including pay of employees, at the Indian school at Hayward, Wis., $2,000.

And insert:

For the support and education of 210 Indian pupils at the Indian school at Hayward, Wis., and pay of superintendent, $36,670; for general repairs and improvements, $2,000; in all, $38,670.

The amendment was agreed to.

The next amendment was, on page 42, line 10, after the word "dollars," to insert "for heating plant and ventilating system, $3,500;" and in line 14, before the word "dollars," to strike out "forty-six thousand four hundred and fifty" and insert "forty-nine thousand nine hundred and fifty," so as to make the clause read:

For support and education of 250 Indian pupils at the Indian school, Tomah, Wis., and for pay of superintendent, $43,450; for heating plant and ventilating system, $3,500; for general repairs and improvements, $3,000; in all, $49,950.

The amendment was agreed to.

The next amendment was, on page 43, after line 16, to strike out:

SEC. 26. The agreement concluded January 4, 1909, with the Oneida Tribe of Indians of Wisconsin, as evidenced by the original papers on file in the Office of Indian Affairs and the copies thereof transmitted to Congress by the President and contained in Senate Document No. 358, Sixty-first Congress, second session, for the commutation of their perpetual annuities under treaty stipulations, made in pursuance of a provision of the act of April 30, 1908, authorizing the Commissioner of Indian Affairs, subject to the approval of Congress, to negotiate with any Indian tribe for the commutation of perpetual annuities due under treaty stipulations, is hereby ratified and confirmed.

And the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the said tribe the sum of $20,000, said sum being a capitalization of the perpetual annuities of said tribe, on the basis of 5 per cent, and the same having been accepted by said tribe in the agreement heretofore mentioned in lieu of and as a commutation of said perpetual annuities.

And the Secretary of the Interior is authorized to withdraw said funds from the Treasury for payment to said Indians, or expenditure for their benefit, at such times and in such manner as he may deem proper and under such regulations as he may prescribe.

The sum placed to the credit of the said tribe, less disbursements therefrom as provided for herein, shall draw interest at the rate of 5 per cent per annum; and the interest accruing on said principal sum may, in the discretion of the Secretary of the Interior, be paid in cash to the Indians entitled thereto annually or semiannually, or expended for their benefit in such manner and under such regulations as he may prescribe.

And insert:

SEC. 26. That upon the passage of this act the Secretary of the Interior be, and he hereby is, authorized and directed to cause to be cut and manufactured into lumber the dead and down timber upon the Menominee Indian Reservation in the State of Wisconsin, together with such green timber as may be necessary to cut in order to economically log the dead and down timber, such green timber to be designated and marked by the Forestry Service. For the cutting of such dead and down timber the Secretary of the Interior shall prescribe rules and regulations in conformity with the intent and purpose of the act of March 28, 1908, entitled "An act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests upon the Menominee Indian Reservation in the State of Wisconsin." The amount of dead and down timber authorized to be cut under this section shall be in addition to the amount of green timber authorized to be cut, in any one year, under the provisions of said act of March 28, 1908. The green timber authorized to be cut under this section to facilitate the logging of dead and down timber, and which shall be cut in any one year, shall be deducted from the amount of green timber authorized to be cut in that year under the provisions of said act of March 28, 1908. The total amount of green and dead and down timber which shall be logged under the provisions of this section and the provisions of said act of March 28, 1908, shall not exceed 40,000,000 feet in any one year unless the Forestry Service shall certify to the Secretary of the Interior that it is necessary, to save waste and loss on dead and down timber, that a greater amount of such dead and down timber shall be cut; in making such certification the Forestry Service shall designate the additional dead and down timber it deems necessary to cut, and such designated timber shall be logged as expeditiously as possible. In the logging operations authorized under this section the Secretary of the Interior may cause to be constructed such roads or logging railway as may be necessary to bring the logs to the mill with expedition and economy. The expense of the logging operations authorized under this section shall be paid in the manner provided in said act of March 28, 1908, authorizing the cutting of timber and the manufacture of lumber upon the Menominee Indian Reservation in the State of Wisconsin.

The amendment was agreed to.

The next amendment was, on page 47, after line 16, to insert as a new section the following:

SEC. 28. Hereafter payments to Indians made from moneys appropriated by Congress in satisfaction of the judgment of any court shall be made under the direction of the officers of the Interior Department charged by law with the supervision of Indian affairs, and all such payments shall be accounted for to the Treasury in conformity with law.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. CLAPP. I offer the amendment I send to the desk.

The SECRETARY. After the amendment heretofore agreed to, at the bottom of page 14, it is proposed to insert the following:

That there is hereby granted to the State of Minnesota, upon the terms and conditions hereinafter named, the following-described property, known as the Indian school at Pipestone, Minn., and more particularly described as follows, to wit:

Sections 1 and 2 of township 106 north, range 46 west, and sections 35 and 36 of township 107 north, range 46 west of the fifth principal meridian, containing 648.2 acres, more or less.

Provided, That said lands and the building shall be held and maintained by the State of Minnesota as an agricultural school, and that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils.

Provided further, That this grant shall be effective on July 1, 1912, if before that date the State of Minnesota by its legislature shall by bill or joint resolution accept the terms of this grant, and in said event the said State of Minnesota shall file with the Secretary of the Interior a certified copy of said act or joint resolution, whereupon this grant shall take effect without further acts; and the indorsement of the Secretary of the Interior upon a certified copy of said act or joint resolution of the Legislature of the State of Minnesota, showing the date of the filing thereof with said Secretary of the Interior and showing said date to be prior to July 1, 1912, shall be competent proof in all courts of record of the filing of such certified copy of such act or joint resolution.

The amendment was agreed to.

Mr. CLAPP. On page 5, line 11, after the word "pupils," I move to insert the words "of school age under 21 years of age."

The amendment was agreed to.

Mr. CLAPP. On page 6, line 24, I move to strike out the words "telegraphing, telephoning."

The amendment was agreed to.

Mr. CLAPP. On page 7, line 1, after the word "supplies," I move to insert the words "and for general expenses of telegraphing and telephoning in the Indian Service."

The amendment was agreed to.

Mr. CLAPP. On page 7, line 19, before the word "dollars," I move to strike out "20" and insert "30."

The amendment was agreed to.

Mr. CLAPP. After the amendment already agreed to, on page 7, line 1, I move to insert the following proviso:

Provided, That the amount appropriated in the Indian appropriation act approved April 4, 1910, for telegraphing and telephoning in connection with the purchase of goods and supplies for the Indian Service, is hereby made available to cover all general expenses for telegraphing and telephoning in the Indian Service that have been or may be incurred during the fiscal year 1911.

The amendment was agreed to.

Mr. CLAPP. On page 10, line 15, in the committee amendment already agreed to, after the words "San Felipe" I move to insert "Indian pueblo."

The amendment was agreed to.

Mr. CLAPP. I offer the amendment I send to the desk. I want to say a word about it before action is taken.

The SECRETARY. On page 11, after line 15, it is proposed to insert:

That so much of the act of April 4, 1910 (36 Stat. L., p. 474), as conditionally grants to the State of Colorado the property known as the Fort Lewis School, including lands, buildings, and fixtures pertaining thereto, together with all and any authority to sell any of said property, is hereby repealed.

Mr. CLAPP. Before the amendment is acted upon, I desire to make a statement to the Senate.

Some time ago Congress made a grant of this property to the State of Colorado under the general policy of the Indian Office to gradually dispense with nonreservation schools. It was done, of course, under the suggestion of the department. Since then the department has discovered that there is coal upon this land, and, upon the department calling it to the attention of the committee, the committee adopted this amendment, which is an effort to recall the grant.

Personally, I am at liberty to say I was opposed to the recall. But since the time of the action of the committee the Legislature of Colorado has taken, as I am advised, the necessary action to accept the grant, and now we are confronted with the proposition of recalling a grant which has been, as I understand, formally accepted by the State. As chairman of the committee, and acting under the direction of the committee, I present the amendment, although I shall of course vote against it. I think the Senator from Colorado desires to present some evidence as to the acceptance.

Mr. GUGGENHEIM. Mr. President, I hold in my hand a communication from the governor of the State of Colorado, stating that he has accepted the grant on behalf of the State. I also am informed that the State legislature has just made an appropriation of $60,000 to carry out the provisions of the grant. I ask to have the governor's letter, copies of other communications, and telegrams inserted in the RECORD.

The VICE PRESIDENT. Without objection, that will be done.

The letters, etc., are as follows:

DENVER, COLO., *January 20, 1911.*

Hon. SIMON GUGGENHEIM,
Senate Post Office, Washington, D. C.:

Senate of Colorado has passed bill establishing school at Fort Lewis, in compliance with act of Congress. Have mailed to Secretary Ballinger my acceptance as governor of the Fort Lewis grant. Have written you, showing that on October 5 I wrote Secretary Ballinger I desired to accept Fort Lewis grant, and have had buildings examined by president of agricultural college, who, with board of agriculture, recommended acceptance of same. Legislature has acted promptly. Confer with Teller, TAYLOR, MARTIN, and RUCKER.

JOHN F. SHAFROTH, *Governor.*

DENVER, COLO., *January 21, 1911.*

Senator SIMON GUGGENHEIM,
Senate Post Office, Washington, D. C.:

Wrote letter expressing desire to accept October 5. Acceptance under State seal January 20. You will receive copies Monday morning. On January 20 senate passed unanimously, on second reading, bill establishing school of agriculture and mechanic arts and appropriated $60,000; therefore conforms to act of Congress.

JOHN F. SHAFROTH.

DENVER, COLO., *January 21, 1911.*

Senator SIMON GUGGENHEIM,
Senate Post Office, Washington, D. C.:

Acceptance of Fort Lewis grant should reach Interior Department on Monday by registered mail. If any filing fees required, pay them. Mailed you to-night copy of bill as it passed senate and house. Will pass bill as soon as possible. Show telegrams to Teller, RUCKER, TAYLOR, and MARTIN.

JOHN F. SHAFROTH.

STATE OF COLORADO, EXECUTIVE CHAMBER,
Denver, January 20, 1911.

Hon. SIMON GUGGENHEIM,
Senate Post Office, Washington, D. C.

MY DEAR SENATOR: On October 5, 1910, I wrote to the Hon. Richard Ballinger, Secretary of the Interior, a letter signifying my desire to accept the property known as the Fort Lewis School, a copy of which I inclose herewith. On October 15 he replied to that letter, to the effect that he failed to see how an acceptance filed by me, as governor, would accomplish anything under the provisions of the act, unless the legislature should have formally authorized the establishment of the school as a State institution, making appropriation therefor. I immediately requested the president of the agricultural college of this State to examine the property, with the view of the advisability of establishing a school there. He, with an expert, visited the lands and buildings, and at the first meeting of the agricultural board after that time laid the matter before them. They recommended the establishment of a school there in accordance with the terms of the act of Congress. The president of the agricultural college, in addition, made a report of the advisability of establishing the school there to me.

In my biennial message to the general assembly, which met the first part of this month, I urged the legislature to pass a bill establishing a school there in compliance with the terms of the act of Congress.

A bill was introduced in the Senate, and also, I think, the same bill was introduced in the house. The senate has passed the bill, and I have no doubt that the house will do the same.

I have just written a letter to Secretary Ballinger, a copy of which I inclose herewith, and also inclose copy of acceptance.

I hope you will prevent the repeal of the existing law providing for this grant.

Yours, truly, JOHN F. SHAFROTH, *Governor.*

DENVER, COLO., *October 5, 1910.*

Hon. RICHARD BALLINGER,
Secretary of the Interior, Washington, D. C.

DEAR SIR: As governor of the State of Colorado, I am very desirous of accepting the property known as the Fort Lewis School, situate in La Plata County, Colo.

The act of Congress granting to the State of Colorado these lands and buildings contained the following:

"*Provided*, That said lands and buildings shall be held and maintained by the State of Colorado as an institution of learning, and that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils: *Provided further*, That this grant shall be effective at any time before July 1, 1911, if before that date the governor of the State of Colorado files an acceptance thereof with the Secretary of the Interior accepting for said State said property upon the terms and conditions herein prescribed."

As you well know, under the constitution of this State the governor is vested with no power of establishing an institution of learning or making an appropriation therefor, but it is contended that, as the power to accept these lands is vested by said act of the National Government in the governor, that until he accepts the same the Legislature of Colorado has nothing upon which to act in establishing the school and making an appropriation therefor. If an acceptance by me now is satisfactory to you, with a stateemnt that I will urge the legislature to appropriate moneys for the maintenance of such an institution as is referred to in the act, I would be glad to make it.

Please let me hear from you, and oblige,

Yours, truly,

(Signed) JOHN F. SHAFROTH, *Governor.*

JANUARY 20, 1911.

Hon. RICHARD A. BALLINGER,
Secretary of the Interior, Washington, D. C.

MY DEAR SIR: I received your telegram yesterday afternoon. I hope that you will withdraw your recommendations with relation to the Fort Lewis land grant, because ever since I wrote to you on October 5 I have been attempting to comply with the terms of the grant.

I appointed the president of the State agricultural college to make an examination of the buildings and the tract of land, as to the advisability of establishing a school there. He, together with an expert,

examined the property and then presented his report to the State agricultural board, and, after due consideration, the State agricultural board recommended the acceptance of the act in compliance with the terms thereof. The president of the agricultural college further made me a report covering the facts, and recommended that the legislature appropriate money for the establishment of a school there, as provided by the act of Congress.

In my biennial message to the general assembly I called attention particularly to the grant, and that I thought that an appropriation by the legislature should be made.

A bill was introduced in the house of representatives, and also in the senate. I think they are identical in wording. The bill has passed the senate of Colorado unanimously, and I have no doubt that the house will pass the same.

I have been informed by lawyers that, upon a close examination of the law, they are satisfied that I have a right, under the terms thereof, to accept the grant, and in accordance with that opinion I inclose you herewith my written acceptance, as governor of the State of Colorado, of the grant, for filing in the office of the Secretary of the Interior.

No grant of Congress could be made for a better purpose, and I hope you will withdraw your recommendation as to the repeal of the law.

Yours, truly,

JOHN F. SHAFROTH, *Governor.*

Whereas by an act of Congress of the United States of America, passed at the second session of the Sixty-first Congress, entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling the treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1911," and approved April 4, 1910, there was granted to the State of Colorado, upon the terms and conditions therein named, the property known as the Fort Lewis School, including the lands, buildings, and fixtures pertaining to said school; and

Whereas it is provided that said lands, buildings, and fixtures shall be held and maintained by the State of Colorado as an institution of learning, and that Indian pupils shall at all times be admitted to said school free of charge for tuition and on terms of equality with white pupils; and

Whereas it is by said act provided further that said grant shall be effective at any time before July 1, 1911, if before that date the governor of the State of Colorado files an acceptance thereof with the Secretary of the Interior accepting for said State said property upon the terms and conditions prescribed; and

Whereas the board of agriculture of the State of Colorado, and the president thereof, have investigated the said lands, buildings, and fixtures and have made plans and arrangements for the establishment of an institution of learning to be maintained by the State of Colorado, and have advised and recommended the acceptance of said grant by the governor of the State of Colorado for and on behalf of said State; and

Whereas there has been introduced and is now pending in the Senate and the House of Representatives of the Eighteenth General Assembly of the State of Colorado a bill providing for the appropriation of moneys by the State of Colorado to maintain, by the State of Colorado as an institution of learning, the said property known as the Fort Lewis School, including the lands, buildings, and fixtures pertaining thereto, and the senate of the general assembly has passed such bill, and I am now satisfied said bill will become a law:

Now, therefore, in consideration of the premises, and of the grant aforesaid, I, John F. Shafroth, governor of the State of Colorado, for and on behalf of the said State of Colorado, do hereby accept the property known as the Fort Lewis School, including the lands, buildings, and fixtures pertaining to said school, upon the terms and conditions named in said grant, and upon the proviso that the said State of Colorado shall hold and maintain the property known as the Fort Lewis School, including the lands, buildings, and fixtures pertaining thereto, as an institution of learning, and upon the further proviso that Indian pupils shall at all times be admitted to said school free of charge for tuition and on terms of equality with white pupils.

In witness whereof I have hereunto set my hand as governor of the State of Colorado, and caused these presents to be attested by the secretary of state of the State of Colorado and the great seal of the State of Colorado to be hereunto affixed, this 20th day of January, A. D. 1911.

JOHN F. SHAFROTH, *Governor.*

Mr. GUGGENHEIM. I am constrained to make a point of order against the amendment as being in violation of paragraph 3 of Rule XVI.

The VICE PRESIDENT. The Chair sustains the point of order.

Mr. CLAPP. I offer the amendment I send to the desk.

The SECRETARY. On page 14, after the amendment adopted at the bottom of the page, insert:

That the last clause of section 10 of the Indian appropriation act approved April 4, 1910, be amended so as to read as follows:

"To enable the Secretary of the Interior to construct a bridge on the old Red Lake Agency Road across Clearwater River in township 150 north of range 37 west of the fifth principal meridian, $1,000, to be available until expended."

The amendment was agreed to.

Mr. CLAPP. On page 15, line 12, after the word "dollars," I move to insert "the same to be reimbursable."

The amendment was agreed to.

Mr. CLAPP. I submit the amendment I send to the desk, to be inserted as a separate paragraph.

The SECRETARY. On page 16, after line 18, insert:

In the issuance of patents for all tracts of land bordering upon Flathead Lake, Mont., it shall be incorporated in the patent that "this conveyance is subject to an easement of 100 linear feet back from the meander line, constituting the frontage on Flathead Lake to remain in the Government for purposes connected with the development of water power."

The amendment was agreed to.

Mr. CLAPP. On page 17, after line 3, I move to insert:

To repair the Government bridge in Knox County, Nebr., on the Niobrara, $1,500, to be immediately available.

The amendment was agreed to.

Mr. CLAPP. On page 17, line 23, after the word "dollars," I move to insert:

For new dormitory for boys, $25,000.

The amendment was agreed to.

The VICE PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (S. 6708) to amend the act of March 3, 1891, entitled "An act to provide for ocean mail service between the United States and foreign ports, and to promote commerce."

Mr. FRYE. I ask that the unfinished business may be temporarily laid aside, retaining its place.

The VICE PRESIDENT. The Senator from Maine asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none.

Mr. CLAPP. On page 17, line 23, I move to change the total by striking out the word "sixty" before "thousand" and inserting "eighty-five," so as to read "$85,900."

The amendment was agreed to.

Mr. CLAPP. On page 21, line 7, I move to insert:

To enable the superintendent to experiment with agricultural and fruit products in connection with irrigation at said agency, to be expended under the direction of the Commissioner of Indian Affairs, $2,500.

The amendment was agreed to.

Mr. CLAPP. On page 27, after line 13, I move to insert the following:

For the benefit and use of the Old Goodland Indian Orphan Industrial School, known also as the Presbyterian Missionary School, $5,000 from the funds belonging to the Choctaw Nation.

Mr. CURTIS. I beg pardon, but I would like to hear the amendment again read.

The VICE PRESIDENT. The Secretary will again read the amendment.

The Secretary again read the amendment, and it was agreed to.

Mr. CLAPP. On page 28, before the subhead "Oregon," I move to insert what I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 28, after line 11, insert:

All tribal contracts which are necessary to the administration of the affairs of the Choctaw and Chickasaw Tribes of Indians by the Government of the United States may be made with the approval of the Secretary of the Interior: *Provided,* That contracts for professional legal services of attorneys may be made by the tribes for a stipulated amount and period, in no case exceeding one year in duration and $5,000 per annum in amount, with reasonable and necessary expenses, to be approved and paid under the direction of the Secretary of the Interior; but such contracts for legal service shall not be of any validity until approved by the President of the United States.

Mr. CURTIS. Mr. President, I should like to have the chairman of the committee explain the necessity for this amendment, and also whether it was considered by the committee. I did not attend the last committee meeting.

Mr. CLAPP. The occasion of the amendment arises from the provisions in one of the acts last year that no contract or contracts heretofore or hereafter made affecting tribal money or property of said Indian tribes or nations should be approved until further action by Congress. The department has called attention to the fact that under the ruling of the Department of Justice this provision interferes with the ordinary administrative affairs, and at the suggestion of the department the amendment has been offered.

Mr. CURTIS. It is made at the suggestion of the department?

Mr. CLAPP. Yes.

Mr. CURTIS. And is approved by the department?

Mr. CLAPP. Not in terms; we did not have time for that; but I think it is very carefully safeguarded.

Mr. CURTIS. If it is not drawn to the satisfaction of the department, it may be amended in conference, may it not?

Mr. CLAPP. Certainly; and the Senator from Kansas will undoubtedly be a member of the conference committee.

The amendment was agreed to.

Mr. CLAPP. On page 28, after the amendment just agreed to, I move to insert:

Funds arising from the sales of unallotted lands and other tribal property belonging to the Choctaw, Chickasaw, Cherokee, Creek, and Seminole Tribes of Indians may, in the discretion of the Secretary of the Interior, be deposited in national banks in the State of Oklahoma, to be designated by him, under such rules and regulations governing the rate of interest thereon, the time of deposit and withdrawal thereof, and the security therefor as he may prescribe. The interest accruing on

such funds shall be used toward defraying the cost of sale of such land and toward the expense of the per capita payment on the distribution of such funds.

Mr. CURTIS. This is the amendment offered to keep the money in Oklahoma which is now being paid for lands and being sent to the subtreasury at St. Louis?

Mr. CLAPP. I do not know where it is sent; but that is the purpose of the amendment.

Mr. CURTIS. Under the law, money received by the Government for the sale of lands in Oklahoma must go to the subtreasury in St. Louis.

Mr. CLAPP. Yes.

Mr. CURTIS. The amendment provides that it shall be deposited in Oklahoma, and I judge from the amendment the interest is to be used to help defray the expenses of the sales?

Mr. CLAPP. Yes. It is all under the discretion of the Secretary of the Interior.

Mr. OWEN. Mr. President, I should like to ask that the department be left the discretion, if it finds it suitable to do so, to also use the State banks, and that the words "or State" be inserted as an amendment preceding the word "banks."

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. After the word "national" insert the words "or State," so as to read "be deposited in national or State banks in the State of Oklahoma."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. CLAPP. On page 32, after line 17, I move to insert:

For support and education of 175 Indian pupils at the Indian school at Pierre, S. Dak., and for pay of superintendent, $35,000, of which $3,000 shall be immediately available; to complete irrigation plant, $17,000; to complete new building, $10,000; for general repairs and improvements, $5,000; in all, $67,000.

The amendment was agreed to.

Mr. CLAPP. At the end of page 14 I ask the Senate to insert the following amendment.

The SECRETARY. It is proposed to insert at the end of page 14:

That a commission consisting of three members be, and the same is hereby, created, authorized, and empowered to make a complete census roll of all the Chippewa Indians who have received, or are entitled to receive, allotments of land in severalty on the White Earth Indian Reservation in the State of Minnesota.

Said commission shall consist of the present Chippewa commissioner, a member to be appointed by the Secretary of the Interior, and a member to be chosen and designated in a general council by the White Earth bands of Chippewa Indians, to be held at the village of White Earth, on the White Earth Indian Reservation, in said State, and the proceedings and report of which council shall be certified to the Secretary of the Interior and authenticated by the chairman and secretary of the council.

The commission hereby authorized shall be selected and appointed within 30 days from the passage of this act, and shall forthwith assemble at the village of White Earth aforesaid, and, after organizing, shall proceed to enroll, in alphabetical and convenient order, all persons entitled thereto, showing the name, age, and sex of each, and making the roll in two parts, one of which shall include only persons having Indian blood alone, which persons shall be designated on the rolls as "full-bloods," the other shall include only persons entitled to enrollment and having other than Indian blood, which persons shall be designated on the rolls as "mixed bloods."

Said rolls shall be in quadruplicate, one copy to be delivered to a member of the tribe, to be designated by the council, one copy to be filed at the White Earth Agency and kept there open to the inspection of any person desiring to examine the same, one copy to be delivered to the Commissioner of Indian Affairs, and one copy to the Secretary of the Interior.

The rolls shall be signed and certified to by the members of the commission and shall be filed, as herein provided, within six months from the date of the appointment of the commissioners by the Secretary of the Interior, and shall be conclusive as to the classes to which said Indians belong, whether "full-bloods" or "mixed bloods."

Said commission is hereby authorized and empowered to administer oaths and take the necessary testimony for establishing the facts in each case with reference to the class to which any member of said reservation belongs on the rolls.

If any Indian whose name appears as a full-blood on said rolls, has, prior to the making thereof, sold and conveyed his allotment, or any part thereof, to an innocent purchaser, under representation by such Indian that he is a mixed blood, the Secretary of the Interior may, and he is hereby authorized, with the consent of the allottee, either to confirm such sale, or, if the amount received therefor, in the discretion of the Secretary of the Interior, be deemed inadequate, he may offer for sale, and sell, under such rules and regulations as he may prescribe, such full-blood's allotment, or any part thereof, and, after reimbursing said innocent purchaser for all sums paid to the allottee therein, shall turn over to the allottee the balance so received from the sale: *Provided, however*, That in all cases where a purchaser has made improvements upon the land at his own expense, such improvements shall be separately appraised by the superintendent in charge of said reservation, by the owner of the improvements, and by the allottee, and said land shall not be sold for less value than said appraisal on both land and improvements.

The allottee or any other person interested in the classification and enrollment under the terms of this act shall be permitted to appear in person or by attorney before said commission and present testimony that he may deem proper.

And to defray the expenses of making such rolls, the sum of $15,000, or so much thereof as may be necessary, is hereby appropriated from the general fund of the Chippewa Indians of Minnesota, now in the Treasury of the United States, to be charged against the Chippewas of White Earth Reservation and be reimbursed to the fund out of their share.

Said commissioners shall be each entitled to compensation at the rate of $10 per day for each and every day actually engaged in the discharge of their duties. They are also hereby authorized to employ an interpreter at $5 per day, and such additional assistance as they may deem proper and necessary, including clerks and stenographers.

Mr. CURTIS. Is this amendment recommended by the department?

Mr. CLAPP. No, sir; it has not. It passed the subcommittee of the House committee. It has not yet been recommended by the full committee of the House, but it is a very necessary provision, in my judgment. Matters have reached a condition there where it does seem to me there ought to be some authoritative designation of the mixed bloods and the full-bloods.

Mr. CURTIS. They have all been enrolled, have they not, under the customs of the Government?

Mr. CLAPP. I presume that pretty nearly all of them have been enrolled.

Mr. CURTIS. Allotments have been made?

Mr. CLAPP. The allotments were made some time ago.

Mr. CURTIS. And this has not been submitted to the office?

Mr. CLAPP. I will state to the Senator from Kansas that men were sent up there to make these rolls, and Indians have come to me themselves and have told me that they were importuned, that they were urged to declare themselves one thing when they were another thing. All we ask is that a commission of three men, one the agent already there, another to be appointed by the Secretary of the Interior, and a third appointed by the Indians themselves, shall proceed and make these rolls. It is their proposition.

Mr. CURTIS. Were these Indians induced to declare their blood, or their degree of blood, in order that they might be enabled to sell their lands?

Mr. CLAPP. I said, if induced.

Mr. CURTIS. That is what I say, if induced.

Mr. CLAPP. If induced, they were induced to declare their blood to the end that after they had sold their land they might disclaim the sale.

Mr. CURTIS. The object of the amendment is to permit the department, upon the recommendation of this commission, to proceed to set aside those sales and advertise the lands and sell them and reimburse the innocent purchaser.

Mr. CLAPP. If they find conditions of that kind prevailing.

Mr. CURTIS. Does the Senator think any man who induced a full-blood to declare himself a part-blood is entitled to reimbursement of any kind?

Mr. CLAPP. Not for a moment; but I do think that where men are known, whose fathers and mothers have appeared upon the mixed roll and have received their patents in fee, and such a person has been induced to make an affidavit that he is a full-blood and the land has passed into the hands of a settler who has gone on there—not the first purchaser but the settler—and made improvements, he is entitled to some other consideration than an ex parte application of a Government agent to the conscience of that Indian with the prospect of the return of his land to him if he declares himself a full-blood.

Mr. CURTIS. This reservation is in the Senator's State, and I judge he has investigated the matter himself.

Mr. CLAPP. Certainly I have.

Mr. CURTIS. I have no objection to the amendment.

Mr. PAGE. I should like to ask why a measure of this apparent importance is brought up at this time without having been submitted to the Committee on Indian Affairs.

Mr. CLAPP. Because there has not been time. This has been reported favorably by the subcommittee of the House Committee on Indian Affairs. The Senator is well aware that with the congested situation it is practically impossible to get at this time through the two Houses an independent bill. Therefore I have asked to put it on this bill. There is no other way in which it can be done. If the House committee should reject the report of the subcommittee the House committee can sustain their objection in conference. On the other hand, if in the meantime the House committee as a full committee shall have approved the bill, then it would follow that the conferees on the part of the House would doubtless be ready to accept it.

Mr. PAGE. Mr. President, I want to profess absolute ignorance in regard to this measure. I do not know whether it should or should not be placed in the bill. I have watched with a good deal of interest the various amendments which have been made to the bill, which is now before the Senate, and I have seen so many different items come in here that have never appeared before the Committee on Indian Affairs and have never been discussed by that committee that it seems to me to be a strange proceeding. I am fresh here in the Senate, I confess, and I do not understand why this should be done.

Mr. CLAPP. It is the privilege of any Senator when a bill comes in here to offer an amendment to that bill. Of course, if it is objectionable that is another question; but that is the universal practice. Any Senator may offer an amendment, and the fact that it had not passed the committee having the bill in charge would not in itself be a reason for rejecting the amendment. Many of the amendments that have been offered to-day are merely to perfect the administrative features of the bill upon the recommendation of the department itself.

Mr. PAGE. Mr. President, I am willing to take the recommendations of the department and the recommendation of the chairman of the Committee on Indian Affairs, but where a matter of as much importance as this seems to be comes before us, and has never been considered in committee and has never been referred to the department, it appears to me that we are acting upon insufficient knowledge here, and that we ought not to pass it in that way.

Mr. CLAPP. If the Senator will consider it for a moment he will see that this commission is to consist, first, of an existing appointee of the Department of the Interior; secondly, of another person to be appointed by the department; and thirdly, of a member of the Indian tribe. By no possibility could that commission overrule the purpose of the Department of the Interior, so far as that purpose was reflected, first by its own employees, and second by its selection. You could not imagine a more absolute safeguard, it seems to me, than that.

Mr. PAGE. We find here a direct law as to what the commissioner appointed shall receive per diem, $10 per day; and we have an allowance of $5 per day for an interpreter. Whether that is a right or a wrong amount I do not know. It seems to me that those matters ought to be considered, and considered carefully, unless the demand for immediate action is more pressing than appears to me at this time to be the case.

Mr. CLAPP. I think the amendment provides that that charge shall be paid out of the Indian money, and certainly the question whether a commissioner shall receive $10 or $8 would be largely a matter of opinion. It strikes me that it is hardly necessary to delay it. I think it provides that it shall be paid out of the Indian money.

Mr. PAGE. I do not know that I have any objection to make to the amendment. It is to the general plan of legislation without knowledge that I object. I do not like to be present at every meeting of our Committee on Indian Affairs, being willing at all times to consider any matter that comes up, and then have so much legislation attached to this appropriation bill which I know absolutely nothing about. I want to have the privilege of considering it; I want to have some knowledge from the department, to know what I am acting upon in a bill that comes from a committee of which I am a member. On this particular matter I have no feeling and I have no knowledge.

The amendment was agreed to.

Mr. CLAPP. On page 39, after line 3, I move to insert the following:

That the Commissioner of the General Land Office be, and is hereby, authorized and directed to cause patents to issue to all persons who have heretofore made settlement in good faith and for their own uses and benefit on the unallotted agricultural lands in the Uintah Indian Reservation under the act of Congress approved May 27, 1902, and acts supplementary thereto, and who also have undertaken to maintain continuous residence thereon for one year, but have been prevented, through lack of water, upon the payment of $1.25 per acre for said land.

Mr. CURTIS. I should like to have the amendment read again.

The VICE PRESIDENT. Without objection, the Secretary will again read the amendment.

The Secretary again read the amendment, and it was agreed to.

Mr. CLAPP. On the same page, after the amendment just agreed to, I move to insert:

To enable the Secretary of the Interior to construct a bridge across the Duchesne River and the Strawberry River at or near Theodore, Utah, $25,000 in all, or so much thereof as may be necessary.

The amendment was agreed to.

Mr. CLAPP. For the Senator from California [Mr. FLINT] I offer an amendment to come in on page 11, after line 5.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 11, after line 5, insert:

That section 25 of the act approved April 21, 1904, entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1905, and for other purposes" (chap. 1402, vol. 33, U. S. Stat. L., p. 224), be, and the same is hereby, amended as follows: In line 12 strike out the word "five" and insert in lieu thereof the word "ten."

The sum of $18,000, or so much thereof as may be necessary, is hereby appropriated, from any funds in the Treasury not otherwise appropriated, to meet the costs of the Reclamation Service in the irrigation of the increased allotments, to be reimbursed from any funds received from the sale of the surplus lands of the reservation.

Mr. FLINT. Mr. President, this amendment provides for a change from 5 to 10 acres in the allotment for Indians in the Yuma Reservation. An act of Congress was passed authorizing the Reclamation Service to reclaim the lands in the Yuma Indian Reservation. The act provided that the expense of the reclamation should be repaid to the Reclamation Service by a sale of the balance of the land over that which should be allotted, and it provided that each Indian should have an allotment of 5 acres.

Since the passage of that act there has been a protest from those who have taken an interest in Indian affairs, who contend that this is an injustice to the Indian; that 5 acres of land would not be sufficient, and that it would mean, if this amendment is now adopted, that the Indians will become a charge upon the Government.

I introduced a bill and had it referred to the Committee on Indian Affairs providing that the allotment should be increased so that the Indians would have an allotment of 10 acres instead of 5 acres. That bill was favorably reported by the Committee on Indian Affairs and it passed the Senate, but I am now advised that there is some doubt about the bill passing the House; and as the Reclamation Service insists that this question shall be settled now or they will proceed to sell the lands and limit the Indians to 5 acres, I have offered the amendment.

There have been from time to time appropriations made to purchase lands in California for the homeless Indians, and unless this change is made, in my opinion, it will be necessary to make an appropriation to buy additional land for the Indians. All who have investigated the subject, the department and all the Indian rights associations have reached the conclusion that this amount of land will not be sufficient and that the Indians will become a charge if the law is not changed in this way. For that reason I ask that the amendment be adopted.

The amendment was agreed to.

Mr. JONES. Mr. President——

The VICE PRESIDENT. Has the Senator from Minnesota any further committee amendments to offer?

Mr. CLAPP. No. I yield to the Senator from Washington.

The VICE PRESIDENT. The committee amendments are then concluded?

Mr. CLAPP. Yes, sir.

Mr. JONES. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Washington will be stated.

The SECRETARY. It is proposed to insert, on page 40, after line 12, the following:

For the construction and improvement of wagon roads on the Yakima Indian Reservation, $100,000, to be reimbursable out of the proceeds from sales of surplus lands of said reservation.

The amendment was agreed to.

Mr. BACON. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Georgia will be stated.

The SECRETARY. On page 28, after the amendment already agreed to, after line 11, it is proposed to insert:

That the Secretary of the Interior be, and he hereby is, authorized and directed to place on the rolls of the Cherokee Nation the names of Emily C. Howell and her children and the children of Catherine E. Howell, herein named, who are as follows: Emily C. Howell, mother; Emily C. Howell, jr., daughter; Ellen E. Howell, daughter; Robert E. Lee Howell, son; Thomas C. Howell, son; Frank R. Howell, son; Evan C. Howell, son; James C. Howell, son; Stephen E. Howell, son; Lettie P. Howell, daughter; Eston E. Howell, son; William T. Howell, son; Julia B. Howell, daughter; Charles C. Howell, son; Mary D. Howell, daughter, all the above being the children of Catherine E. and Emily C. Howell, the first and second wives of Archibald Howell, deceased.

Mr. CURTIS. I make the point of order against that amendment, Mr. President, that it is general legislation.

The VICE PRESIDENT. The point of order is sustained.

Mr. BACON subsequently said: Mr. President, I understand the Senator from Kansas [Mr. CURTIS] is willing to withdraw the objection he made to the amendment presented by me a few moments ago.

Mr. CURTIS. Mr. President, I withdraw the point of order I made against the amendment offered by the Senator from Georgia.

The VICE PRESIDENT. The Senator from Georgia again presents the amendment and the Senator from Kansas withdraws the point of order raised against it. Without objection, the amendment will be agreed to.

Mr. OWEN. Mr. President, I feel compelled to renew the point of order.

The VICE PRESIDENT. The Senator from Oklahoma renews the point of order. The point of order is sustained.

Mr. WARREN. Mr. President, I ask that the amendment which I send to the desk may be inserted on page 28, line 11, or after whatever amendment may have been made at that point.

The VICE PRESIDENT. The amendment proposed by the Senator from Wyoming will be stated.

The SECRETARY. After the amendment already agreed to, on page 28, line 11, it is proposed to insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to remit the claim of the United States against J. Blair Schoenfelt, late United States Indian agent, Union Agency, Okla., growing out of the embezzlement of moneys by Lyman K. Lane, formerly financial clerk and cashier at said agency, for which said Schoenfelt is accountable; and the Secretary of the Treasury is further authorized and directed to pay to said J. Blair Schoenfelt the sum of $3,578.63, being the amount he has paid to the United States on account of said defalcation, and to place to the credit of the proper Indian funds the sum of $3,702.74, embezzled therefrom by said Lane.

Mr. CURTIS. Mr. President, I should like to ask the Senator from Wyoming if that amendment is recommended by the department.

Mr. WARREN. It not only has been recommended by the department, but it has already passed the Senate. It has been considered by one of the great committees of this body, has been favorably reported, and, as I have said, has been passed by the Senate.

In the committee report upon the bill thus passed a communication is embodied from the Solicitor of the Treasury, sent in response to inquiries addressed to him by the committee, which is as follows:

From my investigation of this case I do not find anything which leads me to believe that Mr. Shoenfelt was careless or negligent in the conduct of his office, or that he was in any way culpable for the misapplication of the funds for which he is responsible under his bond. If the loss or defalcation occurred through no fault of his, there would appear to be no reason why Congress should not grant the proposed relief.

Mr. OLIVER. Mr. President, I will say that, as a member of the Committee on Claims, I recommended that a bill on the subject covered by that amendment be passed, and it was passed by the Senate some weeks ago.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. JONES. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Washington will be stated.

The SECRETARY. On page 41, after line 22, it is proposed to insert the following:

For improvements and general repairs to the Cushman Indian School at Tacoma, Wash., to be immediately available and to be reimbursable from the Puyallup 4 per cent school fund, in amounts payable each year equal to one-tenth of the principal of said Puyallup 4 per cent school fund, $75,000.

The amendment was agreed to.

Mr. JONES. On page 41, after line 2, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Washington will be stated.

The SECRETARY. On page 41, after line 2, it is proposed to insert:

For support and education of Indian pupils, including native pupils brought from Alaska, at the Cushman Indian School, at Tacoma, Wash., and for the pay of superintendent, $70,000.

The amendment was agreed to.

Mr. JONES. After the amendment just adopted, I propose to insert what I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Washington will be stated.

The SECRETARY. After the amendment just adopted it is proposed to insert:

For construction of brick pavement, concrete curbing, and sidewalks on South Twenty-eighth Street in front of the Cushman School grounds at Tacoma, Wash., and in front of tract No. 22, also belonging to the school, $40,000.

Mr. PAGE. Mr. President, the Senator from Washington, for whom I entertain the highest respect, is asking us each minute to put in the bill sixty, seventy, eighty, and one hundred thousand dollars at a time. I should like to know what are the grounds for presenting these amendments at this time.

Mr. JONES. Mr. President, the pending amendment provides for the grading of a street which runs directly through the grounds of this school. The Cushman School is located within the city limits of Tacoma. The city has graded the streets fully up to the grounds and then on beyond, but left a strip through the grounds that is in vary bad shape. I was there last summer and found it to be almost impassable. Of course, the city can not assess those lands which belong to the Government.

Mr. PAGE. One word, Mr. President. I should like to ask if this matter has been before the department.

Mr. JONES. The matter has been before the department, and the department simply say with reference to it—that is, as to the bill I introduced with regard to the grading of this street—that they will make no objection to its passage, and it is possible they may favor it. This amendment was introduced quite awhile ago by my colleague [Mr. PILES] and went to the committee. Whether it was referred to the department or not I do not know, but I can not see where the department would have any objection to it. The street ought to be improved. At present it is left in very bad condition, and it makes getting through the school grounds very inconvenient and very expensive. As the city has already graded and paved the streets up to the limit of the school grounds, and then on beyond, it does seem to me the work ought to be continued. I repeat, the city can not assess the school lands, of course, and we ought not to allow this street to continue in that condition.

Mr. PAGE. I should like to inquire if the matter has been before the Committee on Indian Affairs.

Mr. JONES. The amendment was introduced by my colleague [Mr. PILES] two or three weeks ago, or possibly longer than that.

Mr. PAGE. And referred to the committee?

Mr. JONES. And referred to the committee.

Mr. PAGE. And has the committee passed on it favorably?

Mr. JONES. The chairman of the committee has stated that he had no objection to it.

Mr. PILES. If my colleague will permit me, I will say that this matter is practically approved by the department. The Secretary of the Interior has this to say regarding it:

As to the proposed appropriation of $40,000 for the construction of a brick pavement and concrete curbing and sidewalks on South Twenty-eighth Street, in front of the Cushman School grounds, I think this improvement is desirable, and I should be glad if the Congress shall see fit to make the appropriation. However, it was one of those improvements which, while I have had it in mind for some time, I felt was one that might go over to another Congress without material handicap to the development of the school.

I was at the Cushman School in November last, and went over and inspected the grounds. The condition of this roadway is a disgrace not only to the Government but to the city of Tacoma. The roadway, as my colleague stated a moment ago, is practically impassable. It is unjust to the school and it is unjust to the beautiful and growing city of Tacoma to have a mud roadway between two great brick pavements. I hope the Senator from Vermont will not make any objection to the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCUMBER. Mr. President, I desire to offer an amendment.

Mr. BAILEY. Mr. President, if these amendments are going to occupy much time I hardly think it fair to continue their consideration, because the Senator from Kentucky [Mr. PAYNTER] gave notice that he would address the Senate at half past 2 o'clock to-day. It is now beyond that time. He does not desire to be unduly exacting about it, and I would not interpose the suggestion if the pending bill could be disposed of at once; but first one amendment and then another is offered. I am sure that the Senator from Minnesota can conclude his bill this afternoon.

Mr. CLAPP. Mr. President, if the Senator will permit me, I myself had thought that the bill would not take nearly so much time as it has, and I suggest that the bill be temporarily laid aside until the Senator from Kentucky concludes his remarks.

The VICE PRESIDENT. Without objection, the Indian appropriation bill will be temporarily laid aside.

Mr. CLAPP. That is satisfactory.

SENATOR FROM ILLINOIS.

The VICE PRESIDENT. Without objection, the Chair will lay before the Senate the report of the Committee on Privileges and Elections relating to charges preferred against WILLIAM LORIMER, a Senator from the State of Illinois.

Mr. PAYNTER. Mr. President, I do not appear before the Senate as an apologist for bribe givers or bribe takers, nor do I appear as the defender of perjurers, confessed perjurers; neither am I so anxious for popular applause that I am willing to do the thing that is easiest to do to receive it, rather than do the opposing thing which is demanded of me by conscientious conviction, and in doing which receive criticism therefor. There is a time in the life of every public official when he may be harshly criticized for doing that which is right—that which meets the approval of his conscience and which will ultimately be regarded as the proper thing to have been done. When such a condition arises, public officials should meet them in a manly

and courageous way, thus showing they merit public confidence; most of all, retaining their own self-respect. No public man so appeals to the people as the one who has convictions and dares to stand by them in the face of clamorous opposition.

No character in public life invites so little respect as the one who displays his cowardice in the face of hostile demonstration or unjust criticism.

With great reluctance I consented to act as a member of the subcommittee in the hearing of this case. I approached it without any conscious bias whatever. There were no personal or political reasons which could have given me any bias in the case. Senator LORIMER, as you all know, is a Republican. The personal relations which I sustained to Senator LORIMER did not suggest to me that under any circumstances I would be embarrassed as a result of any conclusion I might reach in the case. I had barely a speaking acquaintance with him.

I did not approach the investigation with any feeling or thought that the country demanded a victim to appease its wrath, or that any member of this body, if such a demand was made, would subserviently yield to it; neither did I suppose that a sacrificial offering should be made of the accused Senator to satisfy a popular demand, nor did I suppose it was necessary to do so to give character and standing to the administration. I supposed that the members of this body knew that they had a judicial question to determine. Little did I suppose that Senators would gravely urge that precedents of the Senate should be disregarded, and in lieu thereof substitute rules which do not, in my opinion, have the support of reason or the opinions of the learned courts of the country.

If it had been the purpose of the Senate to disregard its precedents, it was certainly due the Committee on Privileges and Elections to have been so advised when the investigation was ordered.

I am more charitable to the Senator from Indiana [Mr. BEVERIDGE] than he seemed to be to the majority of the committee when he expressed his inability to understand the mental process by which the majority of the committee arrived at its conclusion. If he committed an error in the preparation of the minority report, I think he is entirely excusable. The Senator evidently had to prepare it in great haste because he and another distinguished Senator, Mr. OWEN from Oklahoma, were in a mad rush, in a frantic effort to strike the first blow in this contest. Both, from their point of view, were endeavoring to enlighten an expectant public upon a question affecting the honor and dignity of this body. It presented a scene the like of which I had never witnessed before during my brief service here.

The impartial historian must give the Senator from South Dakota [Mr. CRAWFORD] credit for his effort to strike the second, if not the first blow. He was on the scene and promptly preempted the right to strike the second blow on the following day. I do not think anyone could successfully dispute his right to claim that he was a "near sooner," if he chose to make it.

It seems to me the cartoonists of the country, with their keen appreciation of striking figures and examples, should have reproduced the scene in a way that would have edified and benefited the country. These artistic gentlemen seem to have failed to appreciate the spectacular efforts of the distinguished Senators.

I trust, however, there may be a reproduction of it in some realistic way. To do so may require commercialism to triumph over art, yet I feel sure that it should be preserved in some way. Doubtless the proprietors of the moving-picture shows in the country will utilize the incident for the entertainment of the present and coming generations. The scene must have been pleasing and gratifying to the press gallery.

I thank the Senator from South Dakota [Mr. CRAWFORD] for his great kindness and consideration in excusing the subcommittee for reaching the conclusion which it did. His apology for the subcommittee, the full committee, is in language as follows:

> My only fear is that the testimony was so much broken into by interruption and arguments of counsel during the hearings, and the time in which to weigh and analyze it was so short, that the subcommittee did not give it the weight to which, it seems to me, it is entitled, and the full committee had little opportunity to examine it before submitting their report.

The subcommittee is not entitled to be excused. The Senator, in his desire to shield the subcommittee from criticism, did not consider the fact that the subcommittee was engaged in the hearing of the evidence for about three weeks, and had the benefit of hearing and seeing the witnesses when they testified, and since which time they have had the same opportunity to study the record as the Senator has had. In view of these facts it seems to me the committee is not entitled to be exonerated. On the contrary it is manifest that the difficulty with the subcommittee is that it did not have the keen comprehension and ability of the Senator from South Dakota, which would enable it to determine the difference between what counsel and witnesses had said, the effect of evidence, and the principles of law which should be applied.

In view of the facts, the subcommittee is deeply grateful to the Senator in attempting to furnish an excuse for its supposed failure in reaching a correct conclusion. Although the apology of the Senator for the subcommittee, in view of the facts I have already given, may make it appear that the Senator intended to make the impression that the ability of the subcommittee to understand the facts was small, and the Senator's ability for that work is large, yet, I hasten to say that I know the Senator had no such intention.

The Senator from Oklahoma [Mr. OWEN] said in concluding his remarks, "It is no longer WILLIAM LORIMER on trial, but the Senate itself is on trial before the bar of the American people."

The conclusion drawn from this statement is, the Senate can only acquit itself by convicting WILLIAM LORIMER.

This statement is an appeal to sordid selfishness that is assumed to exist in this body. It is predicated upon the idea that the Senate can not afford to do its duty, although it believes that Mr. LORIMER is entitled to retain his seat, because it would thereby stand condemned in the estimation of the American people. This places the Senators in a position of being judges in their own case. If this body is to be influenced by such considerations as are suggested by the Senator from Oklahoma [Mr. OWEN], then Senator LORIMER in the agony of his soul would be justified in using the language of one of Kentucky's ablest and most eloquent men while on trial before the Kentucky senate during the days of the Whig Party. He said:

> Do not give me up as the cowardly judges gave up Admiral Byng, in the reign of George II, to satisfy the clamor of a weak and feeble administration; or, as the judges did Socrates, in Athens; or, as Pilate did our Saviour, to appease the clamor of the Jews. Show more moral firmness—more courage. * * * I trust, and confidently hope, that both Whigs and Democrats will unite now, for the first time for years, and save me, and rescue my character from this most groundless, oppressive, and cruel persecution.

I am sure if the question for determination is as stated by the Senator from Oklahoma [Mr. OWEN], and should the Senate agree with him (which I do not think it will do) and convict Mr. LORIMER upon the theory of self-preservation it might well be said that Moloch was as merciful as his judges.

The Senator from Indiana in his minority report said:

> I challenge the Senate precedents cited by the majority that even though it be proven that any number of votes were bribed, yet if there were a majority of untainted votes the election can not be questioned.
>
> If only one case of bribery be clearly established in the election of a Senator I hold that this invalidates the entire election. In my opinion, one act of bribery makes the whole election foul.

He challenges the precedents of the Senate.

The law that should govern in a case like this has been sanctioned and approved by this body and some of the greatest lawyers who ever occupied seats on this floor.

Their opinions were the result of experience, the knowledge of the law, and their appreciation of justice. The precedents of the Senate are the crystallization of the opinions of great jurists, great Senators, and enlightened men.

The Senator's suggestion repudiates the idea that this is a Government of law, that the Senate should have some fixed rules in determining the question of the right of a member to a seat on this floor. He would leave the law in a chaotic condition, with no precedents to guide us. He would have it so that every case should be determined by the whim or caprice of the Members of the Senate.

He would have the determination of such questions as uncertain as that "part of the heavens where the aurora borealis dwelleth." If the views of the Senator are to prevail the position of the Senate in such cases would be—

> Like the Borealis race
> That flits ere ye can point its place.

If some of the reasoning of the Senator from Indiana is sound, then if one or more confessed perjurers gave testimony tending to support the charge of wrongdoing the accused is without hope to ever convince the public, or a tribunal where the question is under investigation, that he is innocent; for he says in his report:

> The majority report exonerates these three accused bribe givers upon the ground, chiefly, that they denied the accusation. What else did the majority expect these accused bribe givers to do except to deny that they gave the bribe? What else could they have done unless they, too, confessed?
>
> Did the majority expect everybody concerned with these corrupt proceedings to confess?

In assailing the conclusion of the committee the Senator assumes the very fact at issue. He in effect proclaims the doctrine that whenever a man is charged with an offense, then he is necessarily corrupt and will commit perjury to procure

his acquittal. He practically assumes that there is no integrity in a man whose character may be assailed; that his interest in the result of the investigation deprives him of credibility and makes him helpless before his accusers.

The confidence of the Senator in the truthfulness of statements of confessed perjurers is supreme; that men whose characters have never been assailed before, so far as this record shows, must stand in the attitude of being discredited before they go upon the stand to deny the statements of their corrupt and perjured accusers.

If the logic of the Senator is to prevail, then no man in this broad land of ours has any protection against confessed perjurers; his reputation may be swept away and he must stand discredited because in advance the rule to be applied to his testimony is that his self-interest deprives him of the right to have his testimony weighed in connection with that of his accusers. The only deduction to be made from the argument of the Senator is that the rule should be followed in this case that assumes that all men accused of offense are guilty and will perjure themselves to escape the effect of their alleged wrongful act.

Thank God, I have a better opinion of my fellow men. If I did not have I would be a most unhappy man.

It has been repeatedly stated in substance in the newspapers that the President was taking a hand in this case and was using personal, not his official, influence against Mr. LORIMER.

It is quite difficult to understand how the two kinds of influence can be separated or dissociated. Evidently the newspapers were trying to show that the President was simply trying, by appeals or arguments, to induce Senators to vote to unseat Mr. LORIMER, but was not threatening to separate Senators from official favors.

Mr. President, I resent the imputation against the President. I have had an exalted opinion of his character and have believed that he has chosen wisely in many of his selections for judicial positions. He has been a judge and knows the rights and liberties of the people are only safe with an honest and independent judiciary.

On the day preceding his second inauguration, the lamented McKinley said to me that an honest and independent judiciary was the sheet anchor of our liberties.

The President is a great lawyer and knows that the Constitution divides our Government into branches and that it was intended that one branch should not invade the province of another. The President knows that the Senate is made the judge of the election of its members; therefore the Constitution denies to the executive and judicial branches of the Government the right to determine who is entitled to a seat in this body. Certainly the President would not attempt to violate the spirit, if not the letter of the Constitution, which he has promised to obey. Surely he does not want to do that.

Think of what a spectacle would be presented should he do so. The President clothed with his great office, with important offices to be distributed among his party friends, consequently with the power to give or withhold them, endeavoring to control their judgment in a matter of a purely judicial character. For the President to do so would be far more harmful to the country than it would be to permit an unworthy person to remain a member of this body. What a horrible thought it is that the President should attempt to make this body subservient to his will on determining judicial questions.

How calamitous and humiliating it would be should he succeed. Such conduct would be as reckless as that of the mariner who would cast his compass and chart to the sea and trust the billows to bring him safe to shore.

Think of the effect of such a course and the demands that would be made on him in the future in important cases that are certain to arise. The Standard Oil Co. and the American Tobacco Co. cases are now pending in the Supreme Court. It would be said to the President, you advised the Senate what to do with Mr. LORIMER, and as the Standard Oil Co. and the American Tobacco Co. are said to be great trusts, you should tell the Supreme Court what its judgment should be in these cases.

I protest that it can not be possible that the President has used his exalted position to the unworthy and unjustifiable purpose of making the judgment of Senators subservient to his will.

Were I influenced by the President to decide this case according to his wishes I would feel that I owed it to my constituents to make public my humiliation by wearing a collar, upon which should be written in bright letters, "I belong to the President."

Mr. President, I will give a brief statement as to some of the proceedings in the Illinois Legislature and as to the senatorial contest.

There was no chance to elect a Democrat to the Senate; no one but a Republican could be elected. The legislature had been in session almost five months when Mr. LORIMER was elected. Many members of the legislature had grown weary over the prolonged deadlock, but little if any important business had been transacted by the body. There was a faction in the Democratic party. Lee O'Neil Browne was the candidate before the Democratic caucus for minority leader; the opposing candidate was a man by the name of Tippit. Browne was the caucus nominee for minority leader. The Tippit faction bolted and maintained a separate organization. There were 53 of the Democratic members of the legislature who voted for Mr. LORIMER; some of Browne's followers did not vote for him; quite a large percentage of the Tippit faction also voted for LORIMER, thus indicating that on the question of the election of Mr. LORIMER a part of both factions voted for him. So the Democratic members who refused to vote for Mr. LORIMER were composed of both Browne and Tippit followers. It is evident that Browne had nothing to do with inducing the Tippit men to vote for LORIMER, because the fight between the two factions seemed to be very bitter.

Edward Shurtleff had been a member of the legislature since 1901; was twice speaker before 1909, having been elected by the Republicans. There were not enough independent Republicans to elect Shurtleff to the speakership. The Democrats did not have the necessary votes to elect a speaker, so the independent Republicans and all the Democrats, except one or two, voted for Shurtleff for speaker and thus he was elected. He lives in the congressional district formerly represented by Senator Hopkins.

Neither party introduced Mr. Shurtleff as a witness before the committee. The committee called him without being requested to do so. This was done because he was one of Mr. LORIMER's friends and supporters, and active in promoting Mr. LORIMER's election. The committee thought that it was possible that he might know some important facts bearing upon the subject under investigation. He testified that he had never received any money or anything of value at any time or place to aid in any way in the election of Mr. LORIMER; that he had never given any money for that purpose; that he had never given anyone any money or anything of value because such a one had voted for Mr. LORIMER; that he had never made any promise for himself or anyone else in regard to patronage or other favors to induce any member of the joint assembly to vote for Mr. LORIMER. He denied any knowledge of the use of money for that purpose.

The Senator from South Dakota [Mr. CRAWFORD] stated that Mr. Shurtleff was elected speaker of the house, as a result of the votes of Republicans and Democrats, and that this was a—

most unusual and unnatural combination with the members of an opposing party.

He further declared that—

All party principle was abandoned, the expression of the popular vote at the primary was unceremoniously disregarded, and the control of the house was seized by unscrupulous and unprincipled men with dark-lantern schemes to promote.

Shurtleff was elected speaker as the first step in a corrupt program.

Again the Senator says:

The leaders on both sides who conceived the idea of bartering away all party loyalty and all regard for the action of the 168,305 Republican voters * * * were disloyal and unscrupulous men.

It is perfectly evident from these statements of the Senator from South Dakota that he is greatly disturbed because Mr. Hopkins, the Republican candidate, who had received a plurality at the primary election, was not elected by the legislature. I regret very much the Senator is so much disturbed over that fact.

Foss, Mason, and Webster were also candidates before the primary, and the combined votes of the three were 222,410, which were 54,256 more than were received by Hopkins. It will be observed that Hopkins did not receive a majority of the votes of those who voted at the Republican primary for Senator. There was a factional fight in the Republican Party in Illinois, which seemed to be intense and bitter.

I do not agree with the Senator from South Dakota that such a combination of the minority party and a faction of the majority party is "unusual and unnatural," because such united action has been of frequent occurrence in this country. Whether it was disloyal to the Republican Party in Illinois that some Republicans in that legislature voted for Mr. Shurtleff for speaker is a question with which I do not feel we have anything to do.

I am not familiar with the primary election law of Illinois or the rule of the Republican organization, but I do assert that there was nothing in the combination that tends in the slightest degree to prove that votes were purchased for Mr. LORIMER.

The Republicans who voted for Mr. Shurtleff may have been of the opinion that their party law did not require them to vote

for Hopkins, as he had not received a majority of the votes at the primary. However, this is a question with which we have nothing to do.

The course of Speaker Shurtleff, with reference to this matter, must have been approved by his constituents, because they reelected him to the legislature. That might be accepted as some evidence that Mr. Shurtleff did not act in a disloyal way to the Republican organization, and that his constituents did not regard that he had done so.

The Senator seems to be of the opinion that this was part of the scheme to corrupt members of the legislature to vote for Mr. LORIMER for Senator. The Senator's [Mr. CRAWFORD'S] argument is a great surprise to me, because day after day the attorney who represented the Tribune sought to show that LORIMER was not a candidate for the Senate until within 10 days before the election took place, on the 26th day of May, 1909. If he was not a candidate before that time, then it was impossible that Shurtleff, and other members of the legislature voting for him for speaker, and the Democrats were combining for the purpose of electing Mr. LORIMER to the Senate.

In all deference to the Senator from South Dakota, his conclusions on many other matters are just as erroneous and without support as are his conclusions upon this question. The Senator has made a fierce assault upon Speaker Shurtleff; and with due deference to the opinion of the Senator I want to say that there is no testimony, in my opinion, in this record on which to base it. There was not the slightest evidence to show that the speaker was guilty of a wrongful act, unless it was the so-called disloyalty to the Republican Party. There is absolutely not a particle of evidence in this record which tends to show that he received a cent of money or gave a cent of money to affect the result of the election of a Senator.

The prosecution did not even offer any testimony to support the conclusion of the Senator from South Dakota. It did not even introduce Mr. Shurtleff as a witness, but he was called by the committee without request of counsel on either side.

In my opinion the accusation against Mr. Shurtleff is an unjustifiable one.

I would like to call the attention of the Senator from South Dakota [Mr. CRAWFORD] to the fact that there never was any agreement between the Democrats of the Senate and the so-called insurgents that they would vote together on questions that would arise upon the consideration of the tariff bill; yet, as a matter of fact, they did vote together more uniformly upon questions that did arise in the consideration of the bill than the insurgents and so-called standpatters, the latter claiming to represent the Republican view of the tariff question. And if I am not mistaken, the Senator from South Dakota [Mr. CRAWFORD] was at times acting with the insurgents. I do not mention this fact to show that the insurgents were not loyal to Republican principles, but to show that it is not unusual for the minority party to act with a portion of the majority party with a view to carrying out some policy upon which they agree or in the election of a candidate.

I regret to take the time of the Senate to review to any extent the evidence in the case, because I may, in a measure, abuse the patience of Senators in doing so. Of course, I can not, within the time that should be taken to discuss this case, attempt to review every detail of the evidence, and every phase of the testimony, and every circumstance that may appear in the record and may be discussed by Senators. I shall call the attention of the Senate to enough of the evidence to enable it to understand what has operated upon my mind in reaching the conclusion that I have in this case as to the facts, and to show the application of the principles of law which, in my opinion, should control the action of this body. I shall be compelled to speak of witnesses and judge their characters and credibility in the light of the evidence of this record.

I shall particularly call attention to the facts relating to certain of the members of the legislature whose votes it is claimed were obtained by bribery.

Charles A. White is a witness whose statements led to this investigation. It is painful to be required to follow, in any degree, his sinuous, slimy course. It is not pleasant to be required to use harsh words in order to describe his character, but it is necessary to use plain and harsh terms, as none others will fit the case. I shall not repeat his main story with reference to the alleged bribery, as that has already been told, but I call attention to some facts and some statements of his in order that you may get a clear insight into the character of man upon whose testimony, largely, it is sought to destroy the reputation of Senator LORIMER and deprive him of the honor and emolument of office; take from the State of Illinois the right to make her choice of a Senator. Unless White's testimony is accepted as true, the whole case fails.

The testimony of Lee O'Neil Browne is not considered by me in determining and stating some facts that I will immediately make with reference to White and his conduct. White confesses—

(*a*) That he violated his oath of office.
(*b*) That he was guilty of malfeasance in office.
(*c*) That he was guilty of bribery.
(*d*) That he is a blackmailer.

The Senator from South Dakota says that White, in his testimony before the committee, swore falsely when he denied the statements of Katharine Woods, wherein she testified that White told her facts which indicated his purpose to blackmail Senator LORIMER and his friends.

That he swore falsely when he denied the statement of Rossell, wherein Rossell testified in substance that White told him that he was going to make it "damn hot for LORIMER," "that he was going to look out for Charlie White."

The Senator from South Dakota [Mr. CRAWFORD] also says that he believes that White swore falsely when he denied the statements of Doyle and Curran.

The testimony of Thomas Curran, member of the forty-sixth general assembly, and chairman of labor and industrial affairs committee of the house, a Republican, is as follows:

I had a conversation with White on or about May 27, 1909, in the corridor of the statehouse at Springfield the day after Senator LORIMER was elected. White said, "Curran, are you going to report the woman's 10-hour bill in?" I said, "I surely am. I am with that bill." White said, "What do you do that for? If you will hold it up, there will be something in it for us." I said, "There can not be anything in this bill for me. I am not that kind." White then said, "What the hell! Are you afraid?" I said, "No; I am not afraid, but I am going to report the bill in." White said, "Will you hold it up for just a little while?" I said, "Oh, no; I will report it in just as soon as the clerk calls for reports of committees. I won't hold it up a minute."

In the same conversation White said to me, "Was there anything doing in that Senatorship election of LORIMER yesterday?" And I said, "Not that I know of. I heard nothing of the kind. You are a Democrat and voted for him, and you ought to know if there was. Why do you ask?" White said, "Well, I didn't know; I thought there was. I thought Browne was double-crossing us. I thought I was being double-crossed." I said, "I know nothing about it at all. I have heard nothing."

Allow me for a moment to digress to comment upon the testimony of Mr. Curran. I call attention especially to the last part of the testimony of this witness. The witness testified that this conversation took place on May 27, 1909, the day after Mr. LORIMER was elected to the Senate. White asked if there was anything doing in the senatorial election yesterday. Curran replied to him that he ought to know himself, and propounded this question, "Why do you ask?" Whereupon White responded, "Well, I didn't know; I thought there was. I thought Browne was double-crossing us. I thought I was being double-crossed." That language indicates that he had not received anything for his vote, and had not been promised anything. The only inference that can be drawn from it is that Browne failed to make him any promise to pay him for his vote. If Browne had promised him a consideration for voting for LORIMER he would not have made a statement which indicated that he had been promised or been paid money for his vote. He would have had no occasion for suspecting Browne of "double-crossing" him. This is a perfectly disinterested witness, an honorable witness, one that was not even suspected. In addition to that he has his certificate of character from the Senator from South Dakota, inasmuch as he said that White swore falsely when he denied what Curran said.

It will be seen that the Senator from South Dakota expresses the opinion that White committed perjury in three instances in testifying before the subcommittee. In addition to these admissions of White as to his perfidy and the instances of his bribery, cited by the Senator from South Dakota, to which I agree, I desire to call the attention to some other instances in which it was shown that he committed perjury before the committee. The record shows that he attempted to blackmail Senator LORIMER, and that he made this attempt, all must agree. He swore that he was not attempting to blackmail Senator LORIMER, which is a patent falsehood.

He testified that he would not have taken the money from LORIMER; that if he did, he would have given it to somebody else. This is another instance of perjury.

He committed perjury when he denied the statement of Stermer. Stermer, supported by the testimony of Zentner, stated that White said to him on one occasion that—

That Lorimer crowd, and our old friend Browne, has got to "come across" good and strong with me when I say the word, and I am going to say it, too. Mr. Zentner asked him if he had anything on him, or them, rather. He says no, he hadn't. He said, he got the worst of it at Springfield, but that didn't make no difference, he was a Democrat, and had voted for LORIMER, and he could say that he got money for it.

He again committed perjury when he testified that Sidney Yarborough was in his room in Springfield when he said Browne visited it to make the arrangement to purchase his vote. It was shown by Gloss and his wife and by a railroad conductor of the Illinois Central Railroad and White's pass, which Yarborough used in going to and from Chicago, that Yarborough was in Chicago at that time, not at Springfield in White's room.

There are other parts of this testimony where criticism might be made, but I have confined myself to the instances where it is perfectly manifest that he did commit perjury. In reaching the conclusion which I have, as to this false testimony in the instances cited, I have not taken into consideration the testimony of Lee O'Neil Browne at all.

I submit the question to the Senate, if White will commit numerous perjuries in testifying before the committee to sustain his charge, is it safe to accept his testimony in which he says that he was bribed to vote for Mr. LORIMER?

The mere thought that the Senate would be willing to accept the testimony of such a corrupt man to establish a charge that results in depriving a member of this body of his seat, is appalling to me.

Nothing illustrates the character and perfidy of White better than the letter which he addressed to Mr. LORIMER on December 4, 1909. In that letter he advised Mr. LORIMER that he had written an article giving his experience as a member of the Illinois Legislature; that it would be either in book form, or published in one of the largest magazines in the country; that the manuscript contained about 30,000 words. He said in the letter:

I have not closed a deal with any publishing house, but when my terms are acceptable will dispose of it.

I have been offered a sum sufficient to value the manuscript at about $2.50 per word.

It was perfectly plain that he was attempting to blackmail Mr. LORIMER. He was careful to advise him that he had not closed a contract with the publishing house, but that he would do so. His letter contains the threat that he would publish it, but in order to give Mr. LORIMER a chance to purchase his silence he says that the contract with the publishers is not closed, but it will be when the terms are acceptable. He then gives the value of the manuscript per word, amounting to $75,000, which he hoped Mr. LORIMER would pay for his silence. In response, Mr. LORIMER wrote him as follows:

HON. CHARLES A. WHITE, *O'Fallon, Ill.*

MY DEAR SIR: I am in receipt of your letter of December 4, in which you advise me that you have manuscript ready to place with publishers treating of your experiences as a member of the Illinois Legislature. I would be very glad, indeed, to know of your success as an author.

With kindest personal regards, I am,

Very truly, yours, WILLIAM LORIMER.

This correspondence demonstrates that White was in the blackmailing business; that he prepared the letter with a view to extorting money from Mr. LORIMER, not for the purpose of getting Mr. LORIMER to admit any responsibility for any alleged wrong that might have occurred in the legislature.

If LORIMER had been guilty of any of the charges that he made against him, if Browne had been guilty of the charges that were made against him, they could, and would, have silenced him for a sum of money less, perhaps, than the Tribune paid him for his story. Their refusal to buy his silence is a potential fact in this case. Notwithstanding the fact that the prosecution has introduced confessed perjurers, not one of them has testified that Mr. LORIMER, or Browne, or anyone connected with them in any way, sought to purchase the silence of this perjurer and blackmailer. They evidently did not fear, and did not think they had cause to fear, a perjurer and blackmailer.

The question may be asked, why White made the alleged confession and endeavored to support it by his testimony. The answer is easy: It is known that he had at least 3,500 reasons, each one of which represented 100 cents. How many more such reasons he may have had are not disclosed by the evidence.

Holstlaw was another witness that was introduced for the purpose of showing that he was bribed to vote for LORIMER. This witness was indicted in Springfield for committing perjury, as I understand it, in testifying in regard to a matter that had no connection with voting for Mr. LORIMER.

It was a separate and distinct transaction, and not claimed to be otherwise, from the alleged transaction with reference to his voting for LORIMER. In order to secure the dismissal of this indictment he was induced to make a statement that he had been bribed to vote for LORIMER. Those in charge of the prosecution made this agreement with him. After he made the statement that he had been bribed, and signed it, the perjury indictment was dismissed against him. It was done the day after the statement was signed.

In Holstlaw we have a witness who confessed that he had been bribed with reference to the furniture contract, that he had committed perjury, and in order to get rid of that prosecution he was forced to make his statement as to the vote for LORIMER. He admits that he was guilty of two criminal offenses, one of which was the horrible crime of perjury, and still we are asked to accept his evidence as being sufficient to justify the Senate in unseating Mr. LORIMER.

Senator John Broderick denied that he had paid him a cent of money, or had promised to pay him a cent of money, for his vote for LORIMER or that he had paid him any because he had voted for LORIMER. So far as this record shows, Broderick is a credible witness, unless he is affected by the testimony of a confessed bribe taker and perjurer. Notwithstanding this charge against Broderick, when every citizen of Chicago, who desired to do so, could have read the testimony in this case, the electors of his district reelected him to the senate.

I put it to the Senate, Are you willing to accept the testimony of Holstlaw under the circumstances, which show he committed perjury to escape punishment for bribery in the furniture deal, and to escape conviction for that perjury agreed to tell the story he has related, and say that he is such a credible witness, notwithstanding his criminal character, that you will convict John Broderick of perjury and bribery, and take his vote from WILLIAM LORIMER?

It is said that Holstlaw's testimony is sustained by reason of the fact that on the day that Broderick is alleged to have paid him the money—$2,500—he deposited in a bank in Chicago a like amount to the credit of Holstlaw Bank at Iuka, Ill. Holstlaw is said to be worth $250,000. He either owned or was interested in one or more banks in his section of the State. He had the financial ability to enable him to deposit that amount of money. I deny that this depositing of the money, if he did so on that day, is any evidence of the fact that Broderick paid him $2,500. While I do not question the right or the propriety of proving the fact, I deny that it constitutes any evidence that Broderick paid him the money. Especially in view of his financial condition, it could not create a suspicion that he obtained it in an improper way.

I want to say here and now if such testimony is to be held to be of any value then no man's rights are secure in this country.

Link and Beckemeyer are the two others, it is claimed, who confessed their guilt. Link was indicted for perjury, and the indictment against him was dismissed upon condition that he would testify that he was guilty of having received a bribe to vote for Mr. LORIMER. Beckemeyer was threatened with an indictment in order to induce him to make the alleged confession.

Further along in my address I will have more to say in regard to these witnesses.

JOHN H. DE WOLF.

J. H. De Wolf was a member of the legislature which elected Mr. LORIMER to the Senate. He testified that he had said on several occasions that he was willing to vote for any Republican to break the deadlock; that he had wanted to vote for Hopkins, but he had been told that Hopkins would not accept a Democratic vote; that he had tried to get other Democrats to go with him to vote for Hopkins, as he had more votes than anyone else; that he had never discussed the senatorial election with Charles A. White; that he never asked White if he had been "up to the trough;" that he never had any conversation with anyone about money with reference to the senatorial election; that if he ever did do so, it was done in the lobby of the hotel in a jocular way; that he had never told Beckemeyer that they would have to "show him" before he would vote for LORIMER; that he never had any conversation with Beckemeyer about LORIMER; that he never told George English that he had been offered money to vote for LORIMER, or anything of that kind; that he had never been paid anything for voting for Mr. LORIMER.

De Wolf further testified that he owned 108 acres of land and had placed a mortgage on it for part of the purchase money, part of which had been paid; that about $1,600 of the mortgage had remained unpaid; that he had borrowed $500 to improve his place and had placed a mortgage on it therefor; that this land was purchased before he was elected to the legislature; that the $1,600 mortgage was dated June 16, 1906, and the $500 mortgage was dated June 6, 1908. He testified that he bought another piece of land for $4,600; that he paid $600 of the purchase money; that before he bought the place he arranged with R. H. Henkle to borrow from him money with which to pay the balance of the purchase money, but that Henkle did not have it at the time; that his deed for the land was placed in escrow to be held until Henkle could collect the money to loan him; that finally the mortgage was executed to Henkle for $6,000 on the 108-acre tract of land and also on

the 63-acre tract which he had purchased. He said when the mortgage of $6,000 was executed on the 108-acre tract of land and also on the 63-acre tract of land, the debt on the first piece of land was merged into the $6,000 mortgage. The purchase money was paid to Joliet, the party from whom De Wolf purchased the 63 acres of land. De Wolf paid only about $600 on the last piece of land which he bought and owes the money to Henkle for the balance of it. If De Wolf had not told the truth about it, it was easy enough to have shown that he had not by Henkle, the money lender, and Joliet, the vendor of the land.

This witness was a plain, honest farmer, unsophisticated as to the ways of the world. After hearing him testify I concluded it was a cruel imputation against his character even to bring him before the committee to declare that he had not been bribed. When I saw the original brief of counsel for the Tribune I was glad to see that, notwithstanding the zeal of counsel, he did not name De Wolf as one of the men who had been bribed and whose vote should be excluded.

In the minority report presented by the Senator from Indiana [Mr. BEVERIDGE] it is not claimed that De Wolf's vote should be excluded, nor is it intimated that his vote for Mr. LORIMER had been superinduced by money or other corrupt methods.

I regret that the Senator from South Dakota [Mr. CRAWFORD] felt that he was justified in assailing the character of this witness. It is a pity that a man like De Wolf, honest, as I believe him to be, should, without any basis for it, be charged with having been bribed to vote for Mr. LORIMER. He is poor but honest. His reputation is as dear to him as that of any gentleman holding an exalted position in this Government. He is not able to defend himself here on this charge, but must go through life branded by a distinguished Member of this body as a criminal.

With due deference to the opinion of the Senator from South Dakota, I want to say that there is no justification, in my opinion, for this assault.

I desire to call attention to a very significant fact in this case. Mr. De Wolf testified that a gentleman came to his house, just before he was subpœnaed to appear before the committee, who informed him that he was out in the interest of the committee; that he asked him about the LORIMER case, and that he (De Wolf) told him what he knew about it, and that the party finally said:

> He would like to know of something that I (De Wolf) could put him onto; something where he could go and get some evidence, and that they did not want something for nothing.

De Wolf further testified that he saw the man in Chicago on the day he testified before the committee; that he met him on the street and in a conversation he said that he (De Wolf) "would be gotten into awful deep water in this matter before this investigation was through with."

The committee had sent no such man in search of witnesses. Of course Mr. LORIMER had not sent anyone there to look up evidence for the prosecution, but this man made it evident that he was there to get testimony against Mr. LORIMER. If the committee did not send him there, and LORIMER did not do it, then it necessarily follows that "they," whoever may have been meant, wanted to find evidence against Mr. LORIMER, and from the statement of the individual those whom he represented were willing to pay for the testimony. This method may have been employed in other instances in an effort to secure testimony against Mr. LORIMER.

HENRY A. SHEPHARD.

Henry A. Shephard is a banker, a Democrat, and was a member of the legislature and voted for Mr. LORIMER.

It was claimed by the attorney representing the Chicago Tribune that he had been induced to vote for Mr. LORIMER by corrupt means.

He was solicited by Lee O'Neil Browne to vote for Mr. LORIMER; he declined to agree to do so.

Finally, after having a talk with Mr. LORIMER, he agreed to vote for him, and did so.

He explained the circumstances under which he promised to do so as follows:

> A. I said, "Mr. LORIMER, I have been asked to vote for you for United States Senator." I said, "I am a rock-ribbed Democrat and always have been, and there is only one thing in this world that could induce me to vote for you for United States Senator, and that would be to prevent the editor in Jerseyville, who has maligned me for nine or ten years in his newspaper and who is now a candidate for the post office, to prevent him from obtaining the post office. He is the deputy now," I told him. "The gentleman's name is Richards who is the postmaster," and I included them both in it. I said, "If you will promise me that neither Mr. Richards nor Mr. Becker shall be made the postmaster, I will vote for you." He said, "I will promise you to do all in my power to prevent them from being appointed." I said, "Will it be up to you in making the appointment?" He said, "I shall certainly have my share of the patronage if I am elected Senator, and there is no doubt but that I can fulfill my promise to you." I said, "I will vote for you, Mr. LORIMER, for Senator." And I took my seat, and when the roll was called I voted for Mr. LORIMER.

He testified that he voted for Mr. LORIMER as a result of that interview with him.

He further testified that he was in St. Louis nearly every week and sometimes twice a week; that he only lived 43 or 44 miles from St. Louis; that some time after the adjournment of the legislature he met Mr. Lee O'Neil Browne at the Southern Hotel in St. Louis; that he met him in response to a letter or telegram, which read something like this: "I will be at the Southern Hotel in St. Louis," naming the exact date. "If convenient will be glad to see you."

That he went to the Southern Hotel and found that Browne had not arrived and he went out in the city and he returned to the hotel and found Browne in his room and was taken to it by one of the bell boys; that he never went to St. Louis again in response to any message from Browne or any other member, and that he did not expect to see Wilson or Browne in St. Louis at the time of Wilson's visit to St. Louis.

He was asked to explain why it was that he went to the Southern Hotel on the 15th of July, and in response to the question he testified that he owned a White steamer automobile; that the day before, he discovered the steam escaping badly and he went to St. Louis to get some packing for it.

While going north from the Planters' Hotel on Fourth Street he met Representative Luke. They shook hands and Luke asked him where he was going, and he replied that he was going to the Mercantile Trust Co. and to a tailor, and Luke then asked him if he knew Bob Wilson was in town. He replied that he did not. Luke then informed him that he was at the Southern Hotel and that he was on his way down to see him. Luke asked him to accompany him. He looked at his watch and replied that he could not go as he had an appointment, and that they then separated.

Witness then testified that after getting through with his business he went to the Southern Hotel; that he met some of the members in the lobby, and that he went to Wilson's room by invitation; that he did not receive any money from Wilson, nor did he see anyone else receive any from him; that he was in Wilson's room probably a half hour; that he had no recollection of seeing Mr. Wilson hold private conversation with any persons in the room. He did not remember seeing Wilson take anyone in the bathroom.

He further testified that Wilson called him into the bathroom and asked him "who the lady was he saw him with in the St. Nicholas Hotel in Springfield." Shephard explained to him that it was his sister-in-law; thereupon Wilson replied that he thought it was somebody else. Shephard and Wilson were bachelors.

Shephard also testified that he had an account at the National City Bank of Commerce and the Mississippi Valley Trust Co., but he did not recall whether he had any money on deposit at that time or not. Sometimes he would have money there and draw it out and he would have no balance left; then after awhile he would again make deposits. He testified that he had a box in the safety-deposit vault, and that he visited that vault the day that Wilson was there, but not the day that Browne was; that he went to his safety-vault box, but thinks before he met Wilson. At any rate he went there that day to clip some coupons from some bonds.

Shephard was summoned before a Cook County grand jury and testified before the grand jury and denied that he received any money from Browne or Wilson for voting for LORIMER. He went to the grand-jury room on Wednesday, but after going there he was put in charge of an officer, although no offense was charged against him. He was brought back to the grand-jury room the following day and was required to sit around in the anteroom of the grand-jury room all day except when taken out by Mr. Arnold, assistant State's attorney, and administered some degrees.

In response to questions, Shephard made answers as follows:

> Q. Did you testify?—A. I did.
> Q. Were you put in charge of an officer?—A. I was.
> Q. When?—A. I was called—I went before the grand jury on Wednesday; I think it was after dinner. I went to my hotel Wednesday night. They served summons on me to come back Thursday. Thursday I sat around in the anteroom of the grand-jury room all day, except I was taken out by Mr. Arnold a few times and was administered some degrees.
> Q. Who is Mr. Arnold?—A. He is the assistant State's attorney.
> Q. What did Mr. Arnold do or say to you? What do you mean?—A. If you want my statement; I will tell you.
> Q. That is what I want.—A. All right. About 11 o'clock Thursday morning he called me out of the waiting room of the grand-jury room, back into another room right on the same floor, and he said, "Shephard, Bob Wilson has been in before the grand jury, and he gave some testimony there that you are going to be indicted on for perjury." Pointing his finger at me, he said, "You have lied to 23 representative men of Chicago." I began to expostulate, but I saw it was useless.

Q. To whom did he refer?—A. Pointing at me.
Q. And the 23 men—who were they?—A. The grand jury.
Q. Of Cook County?—A. Yes.
Q. Go on.—A. He said, "You have perjured your soul." He says, "Think what it means to you. You stand high in your community. You are an officer of a bank. The gates of the penitentiary are opening to you. Now, the grand jury has voted an indictment against you for perjury, and it is now drawn, but if you will go back into that grand-jury room and tell the truth and confess we will nolle pros the perjury indictment and we will give you immunity on your confession." Do you want to hear the rest of it?

Judge HANECY. Yes.

Senator BURROWS. Go on.

A. I said, "Mr. Arnold, that grand jury can indict me for perjury, but you can't convict me of perjury. I have not perjured myself, and I will not go there and perjure my soul by the confession to a crime of which I am as innocent as you are just to escape that perjury indictment. Go on with your perjury indictment."

Q. Go on.—A. After that I was placed in the custody of an officer.

Judge HANECY. Whom? By whom?—A. Now, I don't know who placed me in his custody at noon. I had to go to lunch with him.

Q. Where were you when you were placed in his custody?—A. I was up in the waiting room of the grand-jury room and the officer came to me; I just can't recall his name now.
Q. Was it Oakley?—A. Okey.
Q. Okey?—A. Yes.
Q. One of the State attorney's police officers?—A. I believe so. I went to lunch with him.
Q. What did he say to you up in the waiting room?—A. I can't recall. I don't know how I was placed in his custody, or who, Judge.
Q. Did he say he had you in custody?—A. I don't recall that he did, but he went with me to dinner. He said—I would not swear positively what he said—but I have forgotten now what happened, but he went to dinner with me. By whom he was directed to do so or what was said I have forgotten.
Q. When you say "dinner," do you mean the middle of the day?—A. Yes; luncheon.
Q. Go on.

Senator BURROWS. Did he go upon your invitation?—A. No, sir; he did not by a good deal. We went to a restaurant around the corner somewhere from the grand-jury room. We had dinner or lunch. Out in the country we call it dinner, and that is the reason I get the two confounded. We went back to the waiting room of the grand jury, just outside of the grand-jury room. I was kept waiting around there the entire afternoon, until 6 o'clock that night, when I was called into the grand-jury room. The foreman of the grand jury says, "Mr. Shephard, we have decided to place you in the custody of an officer." I said, "What for?" He said, "Well, we think it best." My recollection of it is that I said to him, "What have I done?" "Well, we think it best to place you with an officer. You will go with the officer." I said, "Have you a right to do this?" He said, "We think we have. The officer will treat you kindly. Mr. Officer, you will treat Mr. Shephard kindly." "I have no doubt," I said, "of his kind treatment; but I question your right to do this." "Well, Mr. Officer, you will take charge of Mr. Shephard," and Mr. Officer did take charge of Mr. Shephard.

Judge HANECY. Where were you at that time?—A. I was in the grand-jury room.
Q. Were there grand jurors present?—A. The other grand jurors were there.
Q. Was the State's attorney or one of his assistants there?—A. I could not say as to that; I did not notice that.
Q. What did the officer do?—A. He took charge of me. We went out of the grand-jury room and took the elevator to the floor where the State's attorney's office is located, and we waited around there about an hour.
Q. Did you go into the State's attorney's office?—A. No, sir. I was with Detective O'Keefe this time, and presently Mr. Arnold came back.
Q. The assistant State's attorney?—A. Yes. He said, "Come in here, Shephard," and he took me through offices in which sat White and some others, through to an office and into another one, and presently he went out, and presently Beckemeyer came in, and he said——
Q. Who said?—A. Mr. Beckemeyer. "Were you in St. Louis"——
Q. Who said that?—A. Arnold. (Continuing.) "June 15?" and he said, "I was." "Did you see Bob Wilson there?" "I did." "Did he give you any money?" "He did." "How much?" "Nine hundred dollars." Then Arnold looked at me, and I said—we call Beckemeyer "Becke" for short—and I said, "Becke, did you see me get any money there?" and he said, "I did not, Shep." I said, "What do you think about that, Arnold?" and he said, "Beckemeyer, you may come out." He went out, and then I went out back to my officer. Then I left there and went to the Great Northern Hotel, where I had a room. I had to change my room and get a suite of rooms, two rooms with a bath, connecting, and that officer slept in one room and I in another.
Q. Did the officer go with you when you went from the State attorney's office on that occasion, after Beckemeyer left and you left?—A. After I came out of the office where he had Beckemeyer before me, Mr. O'Keefe took charge of me again.
Q. Officer O'Keefe?—A. Officer O'Keefe; yes, sir. We stood around there for a while, I think it was 7 o'clock before we left the criminal court building. We went down to the Great Northern Hotel. Now, there is another degree in the afternoon that I did overlook, and inasmuch as you have asked for it, I will give it. Arnold called me in at another time that Thursday afternoon and he said, "Now, Shephard, Mr. Wayman has consented to give you one more chance." I said, "That is kind of him." He said, "Beckemeyer is in there now coughing up his guts, and if you want to go in and do likewise, this is your last chance to do so," and I said, "I have got no guts to cough up. I don't care to go into the grand-jury room and perjure myself, and I will not do it." He said, "All right, this is your last chance." Well, that was all of that. Then that night we got down to the Great Northern Hotel.
Q. When you say we, who do you mean?—A. Detective O'Keefe and myself.

Judge HANECY. Did Officer O'Keefe tell you he was going to take you in custody when you were leaving the State's attorney's office in the criminal court building, and that he was going to keep you in custody that night? Is that the reason why you got two rooms at the Great Northern?—A. The foreman of the grand-jury room said: "Mr. Officer, you will take charge of Mr. Shephard."
Q. Go on and tell what took place, the rest of it, while you were in the custody of the officer.—A. Well, we went to bed that night. The next morning, after breakfasting, we went back to the criminal court building. That was Friday morning. Along about 11 o'clock Assistant State's Attorney Arnold called me into the room adjoining—the waiting room of the grand-jury room—and in substance he said this: "Shephard, I am sorry I had to treat you in the manner I did last night; but," he said, "we have to do this to get confessions," I think he said, "from criminals." Now, I am not attempting to recite word for word what he said, but it is the language of it. I said, "I have felt like I was being treated like a criminal, but I am not;" and he said, "I am sorry that I had to do this work, but I do this as I do all of my work—as well as I know how;" but he said, "I went to the front for you last night, Shephard," and I said "How?" He said, "Before the grand jury, and told them that I had submitted you to all of the tests I knew of, and that you were weak in body and I thought you were going to faint several times, and that I had come to the conclusion, and my conclusion I wanted to give to the jury was that Shephard got no money." "Well," I said, "Arnold, if you said that, in spite of what you have done before, I do thank you; but why am I in the custody of an officer? Why was I last night?" He said, "You are not now; you can go to dinner."

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. CURTIS in the chair). Does the Senator from Kentucky yield to the Senator from Iowa?

Mr. PAYNTER. I must decline to yield, because my remarks are very extensive and I do not want to take up the time of the Senate.

The PRESIDING OFFICER. The Senator from Kentucky declines to yield.

Mr. PAYNTER. If the Senator wishes to discuss any question he has in his mind, later on he will have an opportunity.

Mr. CUMMINS. I have a single question to ask.

Mr. PAYNTER. I decline to be interrupted.

The PRESIDING OFFICER. The Senator from Kentucky will proceed.

Mr. PAYNTER. It is insisted that Henry A. Shephard received money for voting for Mr. LORIMER. No witness has testified that he did. He swears that he did not. Browne and Wilson both testify to the same fact.

This witness appeared before the committee, demeaned himself as a gentleman, appeared to be honest and truthful. I studied the witness carefully and his bearing under examination and cross-examination. In giving his testimony there was not the slightest suggestion that he was testifying falsely. The fact that he had a safety box in St. Louis is magnified into a matter of great importance. So far as this record shows, he had it before he met Browne in St. Louis. He went to it, as he testified, to clip coupons from some bonds. To the unsuspicious mind there was nothing more incriminating in going to his safety box than in going into the bank to do business.

There was nothing unusual in his visit to St. Louis, because he lived only a few miles from the city and went there from one to three times a week. He made a most satisfactory explanation of his appearance in the bathroom by saying that Wilson wanted to ask him the name of a lady with whom he had seen him in the St. Nicholas Hotel at Springfield. Both Wilson and Shephard were bachelors, and Wilson seemed to be curious to know the name of the lady with whom he had seen Shephard. While the Senator from South Dakota might not have had the same curiosity that Wilson had with reference to a lady he may have seen with some friend upon some occasion, yet the average man is not surprised that Wilson might have had the curiosity to have made the inquiry which Shephard says he made.

It is a horrible doctrine to proclaim that because it is alleged and claimed that Wilson paid bribe money to others, that therefore he paid it to Shephard, as he had an opportunity to do so. If Shephard's character can be destroyed by this character of testimony, if Senator LORIMER can be deprived of a vote by this character of testimony, then no man's life, no man's liberty, no man's reputation is safe in this country. After Shephard had been taken through the third degree, in a way that is revolting to my mind, the assistant district attorney acknowledged that he believed that Shephard was innocent of the charge. It is most incomprehensible to me that those who read his testimony, and especially those who heard him testify, could have the slightest suspicion that his vote had been the result of a promise of money.

I will at this point advert to another question in relation to Mr. Shephard's testimony, growing out of which the Senator from Indiana [Mr. BEVERIDGE] has declared that Mr. LORIMER was guilty of bribery. It is difficult for me to understand how even suspicion in a man's mind can be so overpowering, how heated imagination can be so intensified, that the Senator could conclude that what took place between Shephard and LORIMER constituted bribery. Shephard did not ask LORIMER to give him money or anything of value to vote for him, nor did LORIMER agree to do so. Shephard did not ask him to give himself an official position, nor did he ask LORIMER to recommend anyone

for appointment for postmaster in the town in which Mr. Shephard lived; neither did Mr. LORIMER make him any promise that he would do so. Shephard recited his grievance against a certain individual in his town, who would probably need Mr. LORIMER's recommendation for appointment as postmaster, and from what Mr. Shephard said, Mr. LORIMER simply promised that he would not give that individual his indorsement. There was no promise of money or a reward of any kind for Shephard's vote, but Mr. LORIMER simply agreed that he would abstain from recommending the individual of whom Shephard complained. I deny that this was bribery. I deny the conduct of Mr. LORIMER was improper. I deny that it involved turpitude in the slightest degree. If this were true, then no candidate could make a public address in his district and outline his policies and promise to do that or the other thing for the people without being guilty of bribery. If he promised that he would secure appropriations for the improvement of rivers, the erection of public buildings, the establishment of post roads, and many other things, if the theory of the Senator from Indiana is correct, he would be guilty of bribery. The Senator from Indiana is of the opinion that that incident in this senatorial contest is sufficient to take from Mr. LORIMER the commission which has been given him by the State of Illinois to a seat in this body.

In all due deference to the position of the Senator from Indiana, I venture to say that the rule which he asks the Senate to follow is not supported by reason or authority, but if a majority of the Senate should establish such a rule and apply it to this case, then the majority are too good for this world and would have constant apprehension that they might soon be translated to a better world to make sure that they would never backslide.

Shephard's vote should not be taken from Mr. LORIMER.

JOSEPH S. CLARK.

Joseph S. Clark was a member of the legislature and lived about 68 miles from St. Louis. He voted for Mr. LORIMER for Senator.

It is charged that Browne gave him a thousand dollars for voting for Mr. LORIMER. He denies that he met Browne in St. Louis. He admits that he went to St. Louis to meet Wilson because Wilson had invited him to do so.

He says that he was never in the bathroom with Wilson; that Wilson never paid him any money; that he never admitted to Beckemeyer that he had received a thousand dollars for voting for LORIMER; that he did not see Beckemeyer in Springfield on the day mentioned or a day when it is claimed he had done so. Testified that he met Robert E. Wilson by chance in Springfield, and said that he probably had three minutes' conversation with him; that Wilson said that he was on the road to Peoria.

There was no evidence and there were no witnesses who testified to any personal knowledge that Browne or Wilson had given Clark any money.

There is no evidence of any kind that Clark was even seen with or did have at any time a considerable sum of money.

Clark testified that as Tippit's faction had given Tippit a banquet, that Browne's faction had discussed the question of giving Browne one; some of this talk was before the legislature adjourned. The banquet was discussed at the meeting with Wilson at St. Louis and he expressed himself as opposed to it.

He testified that St. Louis is a place where people from southern Illinois frequently meet to talk over business and politics.

The Senator from South Dakota attached great importance, in *determining* whether or not Clark voted for Mr. LORIMER, to the fact that he had bought from a member of the legislature two little diamonds, for which he paid $105, and says that he purchased them after he voted for Mr. LORIMER. I do not think the record will bear out that statement. My recollection is that Clark testified that he bought them during the session of the legislature, but does not say at what time during the legislature he bought them. However, this is such an unimportant matter that I will not examine the record to see whether he bought them before or after he voted for Mr. LORIMER.

There is not the slightest evidence that Clark did not have money with which to buy diamonds costing $105, independent of any money received as salary as representative. He received from the State $2,000, $50 for stationery, and $14 or $15 for traveling expenses.

The Senator commented upon the fact that De Wolf paid $600 on some land which he purchased. De Wolf received $2,000 salary, stationery account, and mileage. Perhaps his daily expenses did not amount to more than $2 or $3 while he was in Springfield. He was a farmer of simple taste, apparently of splendid habits.

There is just as much justification and reason for other conclusions which the Senator has reached in this case as there is to his conclusion in regard to the Clark diamonds and De Wolf's $600.

In all deference to the Senator from South Dakota, I say that he has magnified into importance two incidents of no moment in this investigation as strong evidence tending to show that these two representatives had been bribed.

When men's suspicions are aroused, unimportant circumstances are accepted as being of great probative character. That great author, who had the keenest insight into the minds and hearts of men, has most truly said:

> Trifles, light as air,
> Are to the jealous, confirmation strong
> As proofs of holy writ.

This is just as applicable to suspicion, for suspicion is "stuck full of eyes," and it has a "ready tongue."

Mrs. Charles Luke testified that after her husband had returned home after the adjournment of the legislature, some time thereafter, she could not tell the exact time, he showed her $950; that it was in small bills—mostly $20 bills; that he showed her this money before he went to St. Louis in response to a telegram from Robert E. Wilson.

Luke is dead. His story can not be told. To have proven what he said in regard to the matter would have been purely hearsay. It would be a dangerous rule that would allow a vote of a member of the legislature to be excluded from the count by his alleged admission that he had been bribed to cast it. If that could be done, then a number of members, if they chose to do it, could admit that they had been bribed and thus unseat a Member of this body. All that they would have to do would be to tell some one that they had been bribed to cast the vote.

The salary of a member of the Legislature of Illinois is $2,000. Luke had this money; and the fact that he had $950 would not justify a suspicion that he had obtained the money for having been bribed to vote for Mr. LORIMER. There is no evidence here as to the financial condition of Mr. Luke, or that he did not receive the money from some other source, or from his salary as a member of the legislature.

Luke's vote should not be taken from Mr. LORIMER.

Robert E. Wilson denied that he gave any money to Clark, Luke, Shephard, Link, or Beckemeyer. In this he is supported by Clark and Shephard. Beckemeyer and Link testified that he did give them money.

It is not shown in the evidence that Wilson had anything whatever to do in getting members to vote for Mr. LORIMER. No act of his tending to show that fact has been proven; so we have the testimony of Wilson on the one side, supported by Shephard and Clark, against the testimony of two men, who are confessed perjurers.

It may be conceded that he did give Clark and Beckemeyer money from the so-called "jack pot" (it is not proven there was a jack pot). Still Mr. LORIMER is not responsible for that act. It was not given to them, according to their own stories, for voting for Mr. LORIMER; neither was such sum promised them for that purpose.

Can anyone with any reason contend because a member of the legislature voted for LORIMER and, afterwards or before that time, bribed some one to vote for some other measure, that thereby Mr. LORIMER should be deprived of his vote? It might tend to prove that he was a corrupt man, but it would in nowise tend to show that he was bribed to vote for Mr. LORIMER. Certainly Wilson's vote could not be taken from Mr. LORIMER. Wilson has been reelected to the legislature by a constituency fully acquainted with the facts.

LEE O'NEIL BROWNE.

I desire to say something in reference to Lee O'Neil Browne. I saw him upon the witness stand, watched him closely, and endeavored to form a correct opinion of him. He is a man of great intellect. In fact, he impressed me as being a man of marvelous intellect. He demeaned himself splendidly upon the witness stand. There was nothing in his manner to suggest that he was not honest and truthful. In the vicinage—Chicago—where this contest raged fiercest, he was tried on the charge of having bribed Charles White to vote for Mr. LORIMER and was acquitted. The press reports that he was reelected to the legislature by an increased majority.

The testimony given before the committee was published in the Chicago papers, and his constituents had an opportunity to, and doubtless did, make themselves acquainted with the facts in this case. They gave him a vindication by reelecting him to the legislature.

The question for us to determine is, Should we, under such circumstances, say that, because it is to his interest to deny his guilt, therefore we will accept the statements of confessed perjurers and deprive Mr. LORIMER of votes that were cast for him?

It is insisted that if Browne, Broderick, and Wilson bribed members of the legislature to vote for Mr. LORIMER, they themselves were thereby guilty of bribery. Assuming this to be true, I am perfectly willing to concede if they bribed others that they themselves were guilty of bribery. That is an entirely different question from the one involved here. If they were indicted for bribing members of the legislature to vote for LORIMER, then upon proof that they did so they should be convicted. But suppose they were indicted for bribery and the charge was that they themselves had been bribed to vote for LORIMER, could they be convicted of the charge upon evidence that they had bribed other members of the legislature to vote for LORIMER? I deny that it could be done. Why? Because the fact that they bribed others to vote for LORIMER would not be evidence of the fact that they had been bribed themselves to vote for him. Because one member of the legislature bribed another member of the legislature to vote for LORIMER does not furnish evidence that the bribe giver had received a bribe for his vote. The only fair deduction that can be made from such a state of case is that the bribe giver was a corrupt man.

In their zeal to promote the election of some one whom they favor it is a well-understood fact that such persons frequently bribe others to vote for their choice. The fact that they use their own money or that of some one else to accomplish the result in nowise shows that they themselves were bribed to vote. Such a one would be guilty of bribery, but not guilty of the offense of being bribed to cast his vote.

Suppose it could be shown that a number of the members of a legislature who voted for the successful candidate for the Senate were corrupt and were in the habit of taking bribes, would it be fair to conclude, as they were corrupt and had been bribe receivers, they must have been bribed to vote for the successful candidate? My answer is no.

DISTRICT ATTORNEY WAYMAN.

The question has been asked me, Why did Holstlaw, Link, and Beckemeyer confess that they had been bribed, thus exposing their shame? There is a known reason for it, and there may be other reasons not disclosed by the investigation. The recitation of the undisputed facts will furnish a reason.

Link, Beckemeyer, and Shephard were placed in duress, and by the methods employed while thus held the confessions of Beckemeyer and Link were extorted.

The only defense that Wayman made for himself was as to the charge that Link was involuntarily placed and kept in charge of an officer. Mr. Wayman did not deny the facts to which Link testified with reference to the attempt at the district attorney's office to obtain a confession from him.

The district attorney admits that he wanted to keep Link in charge of an officer.

He admits that after Link had made his alleged confession and indictment against him had been dismissed, that he told Link that it would be a good idea for an officer to accompany him to his home until the excitement blew over, and also told him that "If anybody attempts to approach you, you will have somebody who can protect you, because I don't want you to talk with anybody." The district attorney states that Link then said: "If any violence is attempted he would have somebody, at least, who could get protection for him."

The district attorney then said: "I thought it would be well to have him there with him for a while," and Link agreed, and said, "All right, O'Keefe, come on."

This all took place after the alleged confession had been made and the indictment against Link for perjury had been dismissed. It shows that he had to argue with Mr. Link in order to get Link to make the declaration "All right, O'Keefe, come on."

Wayman was asked the following questions and gave the following answers:

Q. Did you ever employ White or the McGuire & White Agency in these matters before you commenced the investigation of the story which was printed in the Tribune on the 30th of last April?—A. In these particular matters?

Q. Yes.—A. Yes. I had employed McGuire & White, I should think, 30 days prior to the edition of the Tribune of April 30, the date of that story being printed.

Q. That is, you employed him in this particular matter?—A. In that case only.

Q. But before that time McGuire & White Detective Agency had been employed by the Tribune?—A. I so understood from Mr. McGuire in his first conference with me; in that conference, when I sought to employ him, he said he had been employed by the Tribune. Then I said, "I will not employ you unless you will work exclusively and take instructions from me and be paid by me." He said, "I will let you know in about a half an hour or an hour and a half; I will have to see," and he did, and then he said, "All right; I have been released by the Chicago Tribune."

Q. Between the time you asked him to work exclusively for you and the time he gave that answer he had communicated with the Chicago Tribune and gotten permission to do so, hadn't he?—A. I don't know; I assumed he had.

Q. Well, it was——A. He told me in his first conference, when I first offered to employ him, that he could not accept employment without consulting the Tribune, who had already employed him to do some little work in it; not so very much, though.

Link testified before the subcommittee as shown by questions and answers as follows:

Q. After you were indicted for perjury were you taken by the State's attorney or any of his assistants and talked with about your testimony and about your indictment?—A. I guess I was.

Q. Now, what was the first thing that was done after you were indicted for perjury by him?—A. They kept flaunting the indictment for perjury against me.

Q. Doing what?—A. Putting it in front of my face, showing it to me and speaking to me.

Senator GAMBLE. Who did that?—A. The assistant State's attorney and the State's attorney himself.

Q. Tell the names of the assistant State's attorneys.—A. Mr. Marshall.

Q. Did State's Attorney Wayman do that, too?—A. He didn't throw it in my face; he would show it to me and talk to me about losing my home, putting my home on one side and the penitentiary on the other.

Q. State to this honorable committee what State's Attorney Wayman told you about the indictment for perjury.—A. He told me if I would go before the grand jury and state that I had received some money from Browne and Robert E. Wilson that I would be cleared and go home a free man. That is what he told me.

Senator BURROWS. Anything else said?—A. Well, I told him that I had told him all I knew, and he denied that I had. We kept up the conversation, and he said he was a farmer himself in his early days South. I told him I was a farmer, and he told me, he says, "You come up here"—the conversation drifted along this line—"and let these Chicago lawyers get a hold of you and they will take your farm away from you." That was the line of talk; and he told me to rest over that night—that was Friday evening—and to come in by 10 o'clock on Saturday morning and make confession, and he would have the perjury charge expunged from the record, and I would go home a free man. That was the sum and substance of the conversation.

Q. They had more than an hour to talk to you about that?—A. Yes, sir; something of that kind.

Q. What time of day was that conversation; what time did it end?—A. It was somewhere between 5.20 and 6.30; it was 6.30 when I left the Criminal Court Building that evening.

Q. Then were you put in the custody of an officer when you left the State's attorney?—A. Yes, sir.

Q. Who was that officer?—A. That was Mr. O'Keefe.

Q. What did he do with you?—A. He took me back to the Morrison Hotel.

Q. Did he stay there with you?—A. Yes, sir.

Q. All the time?—A. Yes, sir.

Q. Was it he that took his revolver billie out and put it on the table in your presence?—A. Yes, sir.

Q. Did he talk with you about what the State's attorney talked to you about—about your going back and telling what the State's attorney wanted you to tell?—A. Yes, sir.

Link also testified as follows:

Q. What did Detective O'Keefe from the State's attorney's office say to you in that respect?—A. He said, "Link, I would not stand by the other fellows, I would stand by Wayman; he is the man to stand by in this matter; make a confession. I don't like to see you get into trouble and you are going to get into trouble."

* * * * * * *

Q. Did Thomas Maguire, the detective, say this to you—that you had better tell what you knew or you would go to the penitentiary; did Maguire say that to you?—A. I rather think one of the assistant State's attorneys told me that; I don't know whether Maguire said that to me or not, but his conversation ran on that line. I think that was Arnold; 20 minutes before 5 o'clock that evening of that week.

Q. What was that conversation you had with Assistant State's Attorney Arnold in which he said that to you?—A. Mr. Arnold came to me and says, "Link, you have got just 20 minutes to save your life." I says, "What do you mean?" He says, "You have got just 20 minutes to go in and tell all you know to save your life." I says, "I have told all I know." He says, "All right, Link, it is your funeral; it is not mine." He goes into the grand jury room and an indictment was returned that evening. I told him I had told all I knew.

Senator PAYNTER. An indictment against you?—A. Yes, sir; for perjury.

Q. Arnold said that to you?—A. He said I had 20 minutes to save my life.

Q. That was just before——A. (Interrupting.) Twenty minutes before the grand jury adjourned at 5 o'clock, Friday afternoon or evening.

* * * * * * *

Q. Did Mr. Arnold say to you in that conversation that you have been referring to, just before you were indicted for perjury, that if you didn't tell what they wanted you to that they would send you to the penitentiary?—A. That it was my funeral; yes, sir.

Q. Did he use the word "penitentiary"—that he would send you to the penitentiary?—A. I am not quite certain; I am not positive; but he used that kind of terms to me.

Q. Did he lay special stress upon the word "penitentiary" in talking to you?—A. Mr. Wayman laid more stress on that than any of his assistants.

Q. That is, that he would send you to the penitentiary?—A. He pictured it very, very strenuously between the penitentiary and my home.

Senator BURROWS. Will you state what he said?—A. He said, "It will be much better for you to be here with your family than to go to the penitentiary and lose your home." He pictured what the penitentiary was, and so forth.

Senator BURROWS. What did he say?—A. That I might lose my home, and he put a great deal of stress on the penitentiary and my home—I being a farmer away from my home and my family.

Senator BURROWS. Was this just before the indictment?—A. Yes, sir.

Senator BURROWS. How long before?—A. Pardon me, I will change that. I think that was right after that—5 o'clock, when they adjourned—after the indictment; yes, sir. This conversation took place with Mr. Wayman and myself. I didn't go before the grand jury until Saturday morning.

Q. Again?—A. Again; this was on this Friday evening.

Q. Did Mr. Wayman say anything, in picturing the penitentiary on one side and your home on the other, about your wife?—A. Why, certainly.

Q. Tell the committee what he said.—A. Well, that I would lose my home, and that meant I would lose my wife, too.

Q. Did he say what would be done if you would go before the grand jury and tell what he wanted you to?—A. That I could go home a free man and not a perjurer in any manner, shape, or form.

Senator BURROWS. If what?—A. If I went before the grand jury and made an acknowledgment.

Senator BURROWS. An acknowledgment of what?—A. If I had received $1,000 from Browne.

Senator FRAZIER. Was that true that you had received $1,000?—A. I shall not deny it; it is true.

Q. Did not the State's attorney say to you that if you would go on and say that you had received $1,000 from Browne for voting for WILLIAM LORIMER for United States Senator that you could go home?—A. Yes, sir.

* * * * * * *

Q. Did Mr. Wayman tell you that you had been indicted and that he would take you before the criminal court for trial on that indictment if you didn't go before the grand jury and tell that body what Mr. Wayman wanted you to tell?—A. Why, certainly; he said I would have to give a bond, and it was a $15,000 bond, and they made it $5,000, I think.

Q. Did Mr. Wayman tell you what he would do if you would go before the grand jury and tell them what he wanted you to tell them? Did he tell you what he would do with the indictment?—A. Nolle pros. it and have it expunged from the record, so in future years it would not be on the record.

Q. Did you say to Mr. Wayman, "Well, I will go before the grand jury and lie if I have to; but I don't want to?" Did you say that or that in substance?—A. That in substance.

Q. Did Mr. Wayman then take you before the grand jury?—A. I went with Mr. Wayman before the grand jury a few minutes before 10 o'clock Saturday, the following day after this conversation took place.

Q. Did you tell the grand jury then on the questions of Mr. Wayman what Mr. Wayman wanted you to tell them?

Senator BURROWS. What did he tell?

Q. What did you tell the grand jury, then?—A. I told the grand jury that I had received $1,000 from Browne and that I had received $900 through Robert Wilson; that is what I told the grand jury.

Q. Did you tell the grand jury that you had received that money or any part of it for voting for Senator LORIMER for United States Senator?—A. Positively no.

Q. Just before you went before the grand jury that last time did Mr. Wayman tell you that if you would go and tell the grand jury what he wanted you to you would keep out of trouble and keep from disgracing your family?—A. Yes, sir.

Q. After you went before the grand jury with Mr. Wayman the last time and told the grand jury what Mr. Wayman asked you to, what, if anything, did Mr. Wayman or his office do in relation to the indictment against you for perjury.—A. Well, he took me before Judge McSurely, I think it was, and said, "Mr. Link has made a clean breast of the whole affair." I didn't know what he called a "clean breast," but those were his words. I denied making a clean breast of anything except the truth.

Q. Did Mr. Wayman have the indictment against you quashed?—A. Yes, sir.

The district attorney had never employed the McGuire & White Detective Agency before. It is evident that he employed them in this particular matter because they had been employed by the Chicago Tribune.

It was a strange coincidence if he did not know that these detectives had been working for the Chicago Tribune before he offered to employ them in this case.

It is perfectly manifest that the detective put in charge of Link was as much the detective of the Chicago Tribune as of the district attorney's office. In fact, he was only the detective for the district attorney's office in name.

Neither Wayman nor his assistants denied Link's statement with reference to the administration of the third degree. Neither did the district attorney nor either of his assistants deny the facts as detailed by Shephard. A special grand jury was empaneled on the day White sold his story to the Tribune for $3,500. White agreed, as evidenced by the written contract between them, that he was to help "substantiate" it.

If Link and Beckemeyer were bribed at all it was not done in Cook, but Sangamon County, and the court having jurisdiction of criminal offenses in Sangamon County was the court which had jurisdiction of the offenses which it is claimed they committed. There is not even a pretense that any part of the transaction took place in Cook County. Notwithstanding these facts the district attorney took charge of Link and evidently desired to retain control of him, and after Link had been summoned to appear before the Sangamon County grand jury sent an attorney there to look after the matter. It is evident that the attorney was sent there for the purpose of keeping Link from testifying before the grand jury of that county.

To prevent Beckemeyer from appearing before the grand jury in Sangamon County the district attorney sent him out of the State and kept him for some days.

The legitimate inference is that the district attorney's office was to and did use all the power of the State of Illinois to obtain evidence to support White's story and convict Mr. LORIMER. The method that was employed by the district attorney's office to obtain evidence for that purpose is abhorrent to a mind that believes that confessions should be voluntarily made and that confessions not so made are of little value as evidence. The stream of justice as it flowed through the court in Chicago where Link, Beckemeyer, and Shephard testified was contaminated by the district attorney's office. Without further comment on this phase of the case, I submit that the Senators who have heard, or read, Link's and Shephard's uncontradicted statements can not and will not approve the method by which the alleged confessions were obtained and that their evidential character is infinitesimal, if not absolutely worthless.

I venture to say that there is not a fair-minded jury in any State of the Union that would convict Browne, Broderick, or Wilson of bribery on the evidence of Holstlaw, Link, Beckemeyer, and White with the corroboration that exists. These corrupt witnesses are relied upon to establish the corroborating facts to sustain the extorted confessions which they made. The meetings of Browne and Wilson with some of the members of the legislature in St. Louis, even without the explanations made by Browne, Wilson, and others, would not create a suspicion that it was for a corrupt purpose, and the only way that it is so made to appear is because the confessedly corrupt witnesses state facts which, if true, would tend to prove that the meetings were with a criminal purpose. So, I repeat that the statements of the corrupt witnesses are relied upon to prove the alleged criminal act and to furnish the corroborative evidence.

Opposed to this is the testimony of Browne, acquitted by a jury of the charge, and reelected by an increased majority to the legislature; the testimony of Wilson, who has been indorsed by a reelection to the legislature; the testimony of Broderick, who has been reelected to the Senate; the testimony of Curran, Zentner, and Katherine Woods, showing that although White did not have anything on Browne and LORIMER, he intended to make them "come across," and that he was going to take care of "Charlie White."

In addition to this testimony, to which I have called your attention, there is more evidence in the record tending to support Browne, Wilson, and Broderick. Besides, the many perjuries committed by White before the subcommittee, some of which are admitted, show his utter lack of character and the worthlessness of his testimony. I desire to say, under my obligations as a Senator, on my honor as a man and a lawyer, that it is my opinion that there is not a court in Christendom, with intelligence, honesty, and courage, that could be induced, lashed though it might be by public clamor, to adjudge that the parties named had been proven guilty of bribery.

THE LAW.

It has been suggested by the Senator from Oklahoma [Mr. OWEN] that if it is shown that one voter was bribed to vote for Mr. LORIMER, the whole election is invalid and should be set aside.

It is said by the Senator from Indiana [Mr. BEVERIDGE], in his minority report, that if one voter is bribed, the whole is foul. I think I can safely say that no such rule prevails in any jurisdiction in this country, unless there is a statute upon which to base it. My attention has not been called to such a statute or any decision based upon it. If such a rule prevails anywhere it is in Great Britain and by reason of a statute. The English decisions upon that question are based upon that statute. I have not concerned myself about that question particularly, for the reason a British statute and British decisions based upon it could not be of any service to us in the consideration of this case. It would be a very unreasonable presumption to indulge that because one member of the legislature was bribed to vote for the successful candidate, though a large majority of the legislature had voted for his election, that the other members of the legislature composing that large majority should have their votes thus nullified and the people of the State deprived of their chosen representative in the Senate.

If I am mistaken as to the facts, and the evidence of Holstlaw should be accepted instead of Broderick, and the evidence of White, Link, and Beckemeyer should be accepted instead of that of Browne, Wilson, Clark, Shephard, and De Wolf, and several others, it should not deprive Mr. LORIMER of his seat. There is a well-defined rule of law which has been accepted and applied by this body in other election cases.

The general rule in this country is, certainly in the Senate, that the votes of the members of the legislature who were bribed to vote for the successful candidate should be taken from the candidate who received them. This is the rule when the votes are bribed by some one other than the candidate himself. There is another rule that governs when the candidate is personally guilty of bribery, or that he had personal knowledge of corrupt use of money and personally sanctioned and encouraged such use thereof to secure his election. He thereby forfeits his right to a seat in this body.

There seems to have been some doubt in the minds of some members of the committee in the Payne case as to the effect of a corrupt act of a candidate.

The Senate recognizes the rule which obtains in the courts and House of Representatives.

In the Ingalls case, reported in Senate Election Cases, page 695, the committee embodied its conclusion in a resolution as follows:

Resolved, That the testimony taken by the committee proves that bribery and other corrupt means were employed by persons favoring the election of Hon. John J. Ingalls to the Senate to obtain for him the votes of members of the Legislature of Kansas in the senatorial election in that State. But it is not proved by the testimony that enough votes were secured by such means to determine the result of the election in his favor. Nor is it shown that Senator Ingalls authorized acts of bribery to secure his election.

In the Payne case, Senate Election Cases, page 705, the committee said:

Your committee are of the opinion that to deprive a sitting Member of the Senate of his seat, the Senate must be satisfied by legal evidence that he was personally guilty of bribery, or that he was personally connected with the bribery or the corrupt use of money to procure his election, or that he had personal knowledge of such corrupt use of money and personally sanctioned or encouraged such use thereof to insure his election. The legal effect of such personal guilt of the sitting Member on his election your committee do not decide, some Members being of opinion that whether it extended to the corruption of the majority of the nominating caucus or the majority of the legislature of the State which secured his election is immaterial on the trial of the validity of his title or on the question of his expulsion, as the single personal act of bribery or other corrupt use of money by the sitting Member, as stated, to procure his election would be sufficient in the opinion of some of us to invalidate the title he claims to have acquired, and would justify his expulsion from the Senate.

Your committee are also of the opinion that, if the evidence fails to show that the sitting Member was guilty of the bribery of any member of the caucus or the legislature, or had any personal knowledge or agency in the bribery or the corrupt use of money to secure his election, then the Senate must be satisfied by legal evidence that a sufficient number of the members of the legislature were bribed by the friends of the sitting Member to secure the votes of enough members of the legislature to insure his election, and that without the votes thus corruptly obtained the sitting Member would not have been declared elected.

In the Clark case, Senate Election Cases, page 914, the committee said:

(1) It is clear that if by bribery or corrupt practices on the part of the friends of a candidate who are conducting his canvass votes are obtained for him without which he would not have had a majority, his election should be annulled, although proof is lacking that he knew of the bribery or corrupt practices.

(2) It seems to have been admitted that if the person elected clearly participated in any one act of bribery or attempted bribery he should be deprived of his office, although the result of the election was not thereby changed.

The rule of the Senate is supported by Payne and McCreary on Elections. In discussing the question as to what disposition should be made of the legal votes, it is said in Payne on Elections (sec. 513):

Where illegal votes have been cast the true rule is to purge the poll by first proving for whom they were cast, and thus ascertain the real vote; but, if this can not be done, then to exclude the poll altogether. This is safer than the rule which arbitrarily apportions the fraud among the parties. But in a contest for a seat in the Forty-fifth Congress, the Committee of Elections said: "In purging the polls of illegal votes the general rule is that, unless it is shown for which candidate they were cast, they are to be deducted from the whole vote of the election division, and not from the candidates having the highest number. Of course, in the application of this rule, such illegal votes would be deducted, proportionately, from both candidates, according to the entire vote returned for each."

McCreary on Elections, in discussing the same question, in section 495, says:

In purging the polls of illegal votes the general rule is that, unless it be shown for which candidate they were cast, they are to be deducted from the whole vote of the election division, and not from the candidate having the largest number. Of course, in the application of this rule such illegal votes would be deducted proportionately from both candidates, according to the entire vote returned for each.

If a vote is illegal by reason of the fact that the voter is not legally qualified to vote, or had the legal qualifications and has disqualified himself to vote by accepting a bribe to vote, thereby losing the right to have his vote counted, then if it can be ascertained for whom he voted, it should be deducted from the person receiving it.

The person casting a vote is not entitled to complain of the rejection of his vote if he was not legally qualified to vote, nor is he entitled to complain if he was legally qualified to vote but by his corrupt act had lost the right to vote and have it counted. The person receiving the vote will not be heard to complain because he received that to which he was not entitled—an illegal vote. In either case there would be an abortive attempt to have an illegal vote counted. The law is the same whether it is cast simply as an elector or in a representative capacity, where the law requires or authorizes an election of a person by the body of which the voter is a member. The status of an illegal vote is just as it would have been had the voter been absent at the time of the election. The same rule must apply in either case. It is a just and fair rule that excludes the illegal votes, thus allowing those entitled to vote to determine the election. To follow this rule, the right of the Forty-sixth General Assembly of the State of Illinois to elect a Senator for the present term will be maintained.

A different legal status of the voter can not be given. The opposing candidates can not complain, because it can not be ascertained or adjudged that the illegal voters would have voted for them or otherwise than they did vote. There is no rule of law that would take the illegal votes from Mr. LORIMER and give them to either of the other candidates for the Senate. The theory of the law is, and this investigation was based upon the claim, that the corrupt voters had lost their right to participate in the election of a Senator. It would be a novel doctrine when a voter is bribed to vote for a candidate and he does so, although the vote is illegal, to say that it is to be given to the opposing candidate. The effect of such a theory may be stated in this way: The corrupted vote is illegal and should not be counted for the candidate who received it; notwithstanding it is illegal and should not be counted, still it should be credited to the candidate for whom it was not cast or intended to be. I confess my mind is too dense to appreciate the logic of such a position.

If that rule is to prevail, may I ask to whom will the illegal votes be given? Will they all be given to Hopkins or Stringer, or divided between them; and if so, how?

The act of July 25, 1866 (Rev. Stat., Title II, chap. 1), contains a provision as follows:

But if the same person has not received a majority of the votes in each house, or if either house has failed to take proceedings as required by this section, the joint assembly shall then proceed to choose, by a viva voce vote of each member present, a person for Senator, and the person who receives a majority of all the votes of the joint assembly, a majority of all the members elected to both houses being present and voting, shall be declared duly elected.

There seems to me to be no difficulty in understanding the meaning of this statute. In fact, it is construed by its terms, and in the investigation of the Lapham and Miller case, Senate Election Cases, page 698, it was interpreted by the committee as follows:

The third ground alleged is that there was not a majority of the whole legislature actually voting for the members chosen. In our opinion that is not necessary. There was a quorum of each house present in the joint assembly; there was a majority of that quorum actually voting for the members chosen. In our opinion that was a valid election.

Under this ruling, when a quorum of each house is present in the joint assembly, a majority of that quorum actually voting, the party who receives a majority of the joint assembly is and should be declared elected.

On the ballot when Mr. LORIMER was declared elected the votes stood as follows:

Number of votes cast	202
Necessary to a choice	102
WILLIAM LORIMER received	108
Albert J. Hopkins received	70
Lawrence B. Stringer received	24

One hundred and two votes were necessary to a choice, being a majority of those present and voting. Mr. LORIMER received 108 votes, which was a majority of 14. If it should be decided that 11 of those votes should be excluded on the evidence in this record, because they were bribed to vote for Mr. LORIMER, then they had lost their right to participate in the caucus, to cast their votes and have them counted; so the joint assembly, after the exclusion of the illegal votes, consisted of 191 members who had the right to participate in the election—to cast their votes and have them counted. Ninety-six would be a majority of the legal votes of the joint assembly. The quorum of a joint assembly must consist of those who are legally entitled to participate in it. If members of the legislature were bribed to vote for some one for Senator, they thereby forfeited their right to vote and their right to have their votes counted, consequently they had lost their right to participate in the joint assembly. It necessarily follows that if they had no right to vote and have their votes counted, they could not in a legal sense be part of the joint assembly for any purpose. They were mere excrescences on that body, or perhaps, more properly speaking, they were mere derelicts. The quorum of the joint assembly must be determined by counting only those who held the right to participate in it, not those who have lost that right and who can not vote. Take 11 votes from 108 and it would leave 97 votes for Mr. LORIMER, which would be one vote more than was necessary to a choice; so he was elected even if we should exclude the entire 11 votes which are questioned. If it is determined that less than 11 of the questioned votes should be excluded Mr. LORIMER's majority will be correspondingly increased.

I have endeavored to give the reasons why none of the votes should be taken from Mr. LORIMER, hence I will not restate them.

Comment has been made upon Mr. LORIMER's failure to testify in his behalf. Upon this question I desire to say that the attorney representing the Chicago Tribune declared, in the opening statement to the subcommittee, in substance, that he did not expect to connect Mr. LORIMER with the alleged bribery. No evidence was introduced even tending to prove that he was guilty of bribery or that he had knowledge that members of the legislature were being bribed to vote for him, nor was there any evidence introduced which would create a suspicion, much less a presumption, that he knew that members were being bribed to vote for him. There was an entire failure of evidence to connect him in any way therewith. There was no testimony offered requiring any explanation on his part. In view of these facts, presumably, Mr. LORIMER thought that nothing had developed in the case requiring any elucidation from him. Besides, he had, on his personal honor and official responsibility, declared to the Senate that there was no truth in the charges made against him. While some Senators may believe that, under the circumstances, he should have gone upon the stand, yet I feel sure that no Senator would say that, if the evidence fails to support the charge against him, his failure to testify would so supplement and strengthen the evidence that thereby the charges would be sustained. His failure to testify not having any evidential character, it simply resolves itself into a question of taste or propriety. He may have thought (and is entitled to that presumption) that he would prefer to let the question of his guilt or innocence be determined without throwing the weight of his evidence into the scales.

Forty years ago a Scotchman, who was a Presbyterian minister of the gospel, arrived in this country with his family. Chicago being an inviting field for his labors, four years later he moved there. Unfortunately for his widow and six children, in 1871 he died without being able to make any provision for their support and comfort. Upon WILLIAM LORIMER, the oldest child, then 10 years of age, fell the burden of relieving the rest of the family from want.

It was a heavy burden for one so young to assume. He had the courage and tenacity of the race from which he sprung. By peddling newspapers, blacking boots, and running errands he kept the rest of the family from want. As his strength and ability increased, the comforts of the family correspondingly increased; besides, he thus enabled the other children to attend school. He had but little time to devote to his education, as most of his time was given to support the family so that the other children might be afforded an opportunity to acquire an education.

He worked in the stockyards, on the street car, as a house painter, building contractor, real estate dealer, brick manufacturer, and, in the end, became a general contractor. His industry and ability gave him success.

He has been a man of perfect morals. He has a wife and eight children, and his domestic life is beautiful.

I have been moved to make these remarks because it has been asserted that the man does not figure in this proceeding. In a sense that may be true. When his conduct has been questioned by confessedly corrupt and perjured testimony, it seems to me that the Members of this body have the right to consider the question of his character and his worth.

My opinion is that good character is the greatest shield that one can possess in a conflict involving honor and integrity.

In the last day or so I received a letter from a good citizen of Kentucky in which he proceeded to advise me to vote against Mr. LORIMER. He thought when he wrote that letter he was doing his duty. He could not have known the facts of this case; perhaps he could not have given the names of but a few of the witnesses who testified in this case, so he neither knew the facts of the case nor the law which should govern it.

He was assuming to advise one as to his duty who was, under his oath of office, a judge of the facts and law of this case; one who has spent perhaps one month in listening to the testimony and the arguments of counsel and in studying and examining the law and reexamining the testimony.

The mere statement of the facts show how inconsiderate one is who, in face of such a condition, assumes to advise another who is charged with the important duty of determining the kind of judgment that should be rendered in this case.

Every Member of this body knows the influence that part of the press of the country has sought to bring to bear on the Senate and to influence its action. While this effort can not, in my opinion, succeed, part of the press of the country thinks it can.

Mr. President, I want to say here and now that the great Commonwealth which I, in part, represent has been noted for its brave, honest, and fair-minded men. The character of the citizenship of that State does not suggest to me that they would have me swerve from my duty, and be a truculent, cowardly, and base judge. When I assumed the duties of this great position I swore that I would support the Constitution.

I pledged myself to decide such cases as this according to the law and the facts. If the people of Kentucky have reached that condition of mind where they believe that I should not have mental and moral integrity and courage enough to do my duty as I see it, then I do not want to represent Kentucky here.

Public officials frequently underrate the intelligence and fair-mindedness of the people. The people want to do right, and will do it if not misled. To show this is true, I trust I may be pardoned for giving a personal experience which I had during the first session of the first Congress of which I was a Member.

In the first session of the Fifty-first Congress there was a question before the House of Representatives, arising from a bill to refund to the States direct taxes paid during the Civil War; it had attracted great public attention and my political associates had filibustered in the preceding Congress for a great many days against the enactment of the proposed law. It was not an issue in my campaign.

I was then a young man. My political associates told me if I voted for the measure it would utterly destroy my political career in Kentucky. After studying the question, I said to those who gave me that advice, "Let it destroy me; if I must do wrong simply because of the effect of my act on my political fortunes, then the sooner I am relieved of official responsibility the better it will be for me; I intend to preserve my self-respect and exercise my judgment in a way that commends itself to me, and I can only do that when I act from a sense of right and duty." I was the only Democratic Member of the House from Kentucky who voted for the measure. Although I was criticized in some of the papers in Kentucky for my vote, I found nothing except approval in every section of my district. As a result, in part, of my vote, there are $600,000 of bonds drawing interest to-day which is used for the purpose of helping to educate the children of Kentucky. Until the constitution of Kentucky is changed not a cent of it can be used otherwise, for by that instrument the bonds are held as a sacred fund for the education of the children of the State. My long experience has shown me that if we are imbued with a sense of right, if we are true to ourselves and follow the judgment that leads the way along right lines, we will continue to enjoy the confidence of those who have trusted us.

In the consideration of the judicial question that is before us, if I knew that every man, woman, and child in Kentucky were of the opinion that I should vote to unseat Mr. LORIMER, I would not do it. If I knew that my vote would retire me from public life, it would not alter my course in this matter, nor would I have the slightest regret that I had reached the conclusion which I did in this case.

Upon a question that did not require me to violate the Constitution I would be glad to carry out the wishes of my constituents. This is not a political question, this is a judicial one; therefore, I have taken occasion to give expression to my feelings upon this question.

It was supposed by the illustrious men who framed the Constitution, the instrument which another has said "was the greatest instrument ever stricken at one time from the brain of man," that the Senate would be a conservative body, composed of honest, intelligent, and courageous men; that if a storm of passion or clamor should sweep over the country, threatening the destruction of law and order; that if hysteria of an unreasoning character should seek to subvert individual or lawful rights, the Senate, true to the theory upon which it was established, would follow a course dictated by wisdom and rescue the country from the impending danger.

If the Senate should yield to the clamorous demand of part of the newspapers of the country and make Mr. LORIMER a victim of a hysterical crusade against him, then we have entered, without chart or compass, upon a "sea of trouble," shoreless and bottomless. I am unwilling to make such a voyage.

If I faltered in the discharge of my duty in this case as I understand it, if I played the part of a weak and truculent judge, then the words that Byron placed in the mouth of Eve in administering a curse upon Cain would be just if pronounced against me:

> May the grass wither from thy feet! the woods
> Deny thee shelter! earth a home! the dust
> A grave! the sun his light! and heaven her God!

The Committee on Privileges and Elections consists of 12 members, seven of whom are Republicans and five are Democrats.

Six Republicans and four Democrats made the majority report wherein they hold that WILLIAM LORIMER was duly elected a Senator from the State of Illinois, and is entitled to retain his seat.

I shall vote to sustain that report.

INDIAN APPROPRIATION BILL.

Mr. CLAPP. I ask the Senate to resume the consideration of the Indian appropriation bill.

By unanimous consent, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 28406) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1912.

Mr. McCUMBER. I offer the amendment I send to the desk.

The SECRETARY. On page 28, after line 11, and the amendment already agreed to at that place, it is proposed to insert the following paragraph:

That the Secretary of the Treasury is authorized and directed to pay to the heirs of John W. West, deceased, or their legal representative, out of any money in the Treasury of the United States standing to the credit of the Cherokee Nation of Indians, the sum of $5,000 and interest thereon at the rate of 5 per cent per annum from September 16, 1884, in full payment for the property of said John W. West taken by the Cherokee National Council October 30, 1843; said $5,000 being the amount found due the heirs of the said John W. West by the commission appointed under the provisions of the seventh article of the treaty of August 6, 1846, and affirmed by the Secretary of the Interior September 16, 1884.

Mr. CURTIS. Mr. President, I notice a provision in the amendment for the payment of interest. I think that provision ought to be stricken out, and if that should be done I should have no objection to the amendment. It was considered by two different subcommittees of the Committee on Indian Affairs and favorably recommended and passed the Senate. It is an obligation, but I do not think the Indians ought to be required to pay interest on the claim.

Mr. McCUMBER. I concede whatever the Senator says in reference to interest. I supposed the amendment was based entirely upon the report made by the Senator from Kansas, and I assumed that it was entirely in accordance with his report. But if it is contrary to his report, I consent, as the one offering the amendment, that it be modified as suggested by the Senator from Kansas.

The VICE PRESIDENT. The Secretary will state the modification.

The SECRETARY. Strike out the words—

And interest thereon at the rate of 5 per cent per annum from September 16, 1884.

The amendment as modified was agreed to.

Mr. OWEN. Mr. President, I have several small amendments I should like to offer on behalf of Oklahoma.

The VICE PRESIDENT. The Senator from Oklahoma offers an amendment, which the Secretary will state.

The SECRETARY. On page 27, after line 5, and after the amendment agreed to at that point, insert the following:

That the Secretary of the Interior be, and he is hereby, authorized to designate an employee or employees of the Department of the Interior to sign, under the direction of the Secretary, in his name and for him, his approval of tribal deeds to allottees, to purchasers of town lots, to purchasers of unallotted lands, to persons, corporations, or organizations for lands reserved to them under the laws for their use and benefit, and to any tribal deeds made and executed according to law for any of the Five Civilized Tribes of Indians in Oklahoma.

The amendment was agreed to.

Mr. OWEN. I offer the amendment I send to the desk.

The SECRETARY. On page 23, after line 7, insert:

That all payments heretofore due and extended, and the payments due or to become due during the year 1910 from entrymen who have made entry under an act entitled "An act to open to settlement 505,000 acres of land in Kiowa, Comanche, and Apache Indian Reservations, in Oklahoma Territory," approved June 5, 1906, and the act entitled "An act giving preference right to actual settlers on pasture reservation No. 3 to purchase land leased to them for agricultural purposes in Comanche County, Okla.," approved June 28, 1906, are hereby postponed and extended as follows: One of said payments shall be made in 1912, at the time when a payment would become due under existing law, or one year after such payment became due in 1911, and the other payments shall be made annually thereafter until all payments are made: *Provided*, That all payments postponed and extended by the provisions of this act shall draw interest at 5 per cent per annum from the date of such extension, and the interest when paid shall be credited to the proceeds of the sale of the land as provided in said acts: *And provided further*, That nothing in this act shall extend the time of payments in any case where it shall appear to the satisfaction of the Secretary of the Interior that the law in regard to residence and improvement, as provided by the homestead law, has not been fully performed.

Mr. CURTIS. I make the point of order against the amendment that it changes existing law and is general legislation. The time has been extended.

Mr. OWEN. Mr. President, I think the amendment is subject to the point of order. It was offered because there has been a severe drought down there, and it extends the time of payment one year, at 5 per cent, which I thought would not be objected to by anyone.

Mr. CURTIS. The time has been extended to these people three or four times. At the last meeting of the committee they promised they would not ask it again, and the committee has refused to extend the time for other settlers under similar circumstances. Therefore I think the point of order should be made.

The VICE PRESIDENT. The point of order is sustained.

Mr. OWEN. I submit the amendment I send to the desk.

The SECRETARY. On page 28, after line 11, and after the amendments already agreed to at that point, insert the following:

That the certificates of allotment or trust patents heretofore issued to certain Mexican Kickapoo Indians, now nonresident in the United States and who were by act of Congress of June 21, 1906, given power to lease their lands for a period of five years without restriction, namely, the certificates issued to We-ah-che-kah, allottee No. 47; Kish-ke nic-quote, allottee No. 243; and Ne-pah-hah, allottee No. 244, upon the rolls of said tribe, for lands allotted them in Oklahoma, be, and the same hereby are, each declared to pass the title in fee simple of the lands described in each of said certificates or trust patents to each of the said several allottees, and all restrictions as to the sale, incumbrance, and taxation of said lands are hereby removed: *Provided*, The selling price be reasonable, be paid to such Indian, and be approved by the Secretary of the Interior.

Mr. CURTIS. I make a point of order on the amendment. If the Senator from Oklahoma desires, I shall be perfectly willing to let the matter go over until to-morrow. I understand the United States district court of Oklahoma has decided that no title passed under that act. If so, then I think the matter should be left as it is. I would like at least until to-morrow to look into the matter.

Mr. CLAPP. Mr. President——

Mr. OWEN. I should be quite content to have the matter go over until to-morrow. In fact, if it be objected to by anyone, I will gladly withdraw the item. It was offered at the request of the attorney of these people, B. M. Fields, and the representation was made that these people had ceased to live in the United States and had moved into Mexico, and I thought it would be a proper thing to allow them to dispose of this property under the safeguard of the Secretary's office. But if anyone objects to it I will withdraw it.

Mr. CLAPP. Do you withdraw the amendment?

Mr. OWEN. I will if it is objected to.

Mr. CLAPP. I do not want to have the bill go over, if that can be avoided. I should like to get it through to-night.

The VICE PRESIDENT. The amendment is withdrawn.

Mr. OWEN. I offer an amendment, that the people of the city of McAlester, Okla., may, under the safeguard of the Interior Department, acquire, at the appraised value, some segregated lands for the purpose of parks, the land to be appraised by the Secretary.

The SECRETARY. On page 28, after line 11, and after the amendments already agreed to at that point, insert:

The city of McAlester, Okla., is authorized to acquire for park purposes, at a value to be appraised under the supervision and with the approval of the Secretary of the Interior, the following land:

(1) Beginning at a point 662.6 feet south and 333.8 feet east of the northeast corner of the southwest quarter of section 32, township 6 north, range 15 east; thence west 2,973.8 feet; thence north 1,654.6 feet; thence east 1,647 feet; thence north 387.9 feet to the south line of the Missouri, Kansas & Texas Railway right of way of the Wilburton branch; thence easterly along said south line of said right of way 1,326.8 feet; thence south 2,067.5 feet to place of beginning, containing approximately 125.04 acres.

(2) A tract of land described as follows: The west half of the southwest quarter; the southeast quarter of the southwest quarter; the west half of the northeast quarter of the southwest quarter; the west half of the east half of the northeast quarter of the southwest quarter; the southwest quarter of the southeast quarter; the west half of the southeast quarter of the southeast quarter; the same all lying and being situate in section 12, township 5 north, range 14 east, and containing approximately 210 acres; also a part of the southeast quarter of the southeast quarter of said section 12, township 5 north, range 14 east, bounded as follows: Beginning at a point 660 feet east of the northwest corner of the southeast quarter of the southeast quarter of said section 12, thence east 252 feet to the west right-of-way line of the Missouri, Kansas & Texas Railway; thence southwesterly along the said west right-of-way line 1,328 feet to a point in the south line of section 12, which is 714 feet east of the southwest corner of the southeast quarter of the southeast quarter of said section 12; thence west 54 feet to the southeast corner of the west half of the southeast quarter of the southeast quarter of said section; thence north 1,321 feet to place of beginning, containing approximately 4.6 acres. Also the following described lands in section 13, township 5 north, range 14 east, to wit, the northwest quarter; the north half of the southwest quarter; the west half of the northeast quarter; the west half of the west half of the east half of the northeast quarter; the northwest quarter of the northeast quarter, all in said section 13; also a part of the east half of the northeast quarter of said section 13, bounded as follows: Beginning at a point 330 feet east of the northwest corner of the northeast quarter of said section 13; thence east 384 feet to a point 381 feet east of the southwest corner of the southeast quarter of the northeast quarter; thence west 51 feet; thence north 2,643 feet to beginning, containing approximately 13.2 acres.

Said first tract containing in all 125.04 acres, and said second tract containing in all 607.8 acres, making a total sought to be acquired for park purposes of 732.84 acres.

Mr. CURTIS. I dislike to keep making points of order against this kind of legislation, but I think I will make it. I do not see any reason why the city can not secure this right by a general bill, to be considered by the committee and reported and acted upon. Therefore I make the point of order that the amendment is objectionable to paragraph 3 of Rule XVI.

The VICE PRESIDENT. The point of order is sustained.

Mr. OWEN. I offer the amendment I send to the desk, to be inserted after the amendments heretofore inserted at the end of the Oklahoma section.

The SECRETARY. On page 28, after line 11, and after the amendments already agreed to, it is proposed to insert:

That William Brown and Levi B. Gritts, on their own behalf and on behalf of other Cherokee citizens enrolled under the Cherokee allotment act of July 1, 1902, as citizens entitled to enrollment as of date September 1, 1902, are hereby authorized and empowered to institute suit in the Court of Claims against the Secretary of the Interior for the determination of their rights in the lands allotted them, the right to control and the right of alienation of their individual allotments, and of their right to exclusively participate in the unallotted funds or lands or proceeds thereof claimed by them under the act entitled, "An act to provide for the allotment of lands of the Cherokee Nation, for the disposition of town sites therein, and for other purposes," approved July 1, 1902.

The Court of Claims is authorized to render judgment in the premises, which shall be binding on the authorities of the United States, and the right of appeal to the Supreme Court of the United States is hereby granted to either party. No payment of the undistributed Cherokee lands or funds shall be concluded until the determination of the suit hereby authorized. Suits brought hereunder shall be brought on or before May 1, 1911, and shall be defended by the Attorney General of the United States, who shall give preference to such suits and arrange a speedy disposition thereof.

Upon the rendition of final judgment the Court of Claims shall fix a reasonable compensation to be paid to the attorneys employed by the above-named parties for services and expenses, and shall render judgment therefor to be paid out of the funds in the United States Treasury belonging to the beneficiaries of such judgment under said act of July 1, 1902.

Mr. KEAN. Mr. President, that sounds to me very much as if it were out of order. I make a point of order against it.

Mr. OWEN. Before the Senator makes a point of order I should like to have an opportunity to explain it.

Mr. KEAN. I will withhold the point of order for that purpose.

Mr. OWEN. The Supreme Court of the United States has already passed upon this case of Brown and Gritts, in which was to be determined the validity of the act extending the restriction on the land under the Cherokee agreement of 1902. They held it was a moot case, and therefore sent it back to the Court of Claims, directing the petition to be dismissed. The matter now comes by an injunction proceeding in the District of Columbia. It will take a year or two longer to determine the issue, and it is important to the winding up of the affairs of the Five Tribes that it be definitely ascertained and fixed.

I hope, therefore, the Senator will not persist in his objection, because it will go over if he does, and the opportunity of this relief will be denied. I think no one will object to having it go before the Supreme Court. That is all it does. It must go there in any event. The only effect of the amendment is to bring it to a determination from one to two years earlier than otherwise, and save the expense to the Government of continuing the administration that much longer of the affairs of the Five Tribes.

Mr. KEAN. I do not think it ought to be on the appropriation bill, and I must insist on the point of order.

The VICE PRESIDENT. The Chair assumes that the point of order invoked is the provision of clause 3 of Rule XVI, and sustains the point of order.

Mr. OWEN. I think it is subject to the point of order, and if the Senator makes it, that is sufficient to dispose of it.

I offer the following amendment.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 41, after line 2, insert the following proviso:

Provided, That the Secretary of the Treasury shall first deduct from said amount the sum of $90,000 and pay the same to the attorneys for said Indians to whom awards were made by name in the judgment of the Court of Claims in cause No. 29526 of the general jurisdiction of said court in the proportions that the amounts respectively awarded to each of the said attorneys bear to the total amount awarded them in said judgment, the said sum of $90,000 to be immediately available.

Mr. DAVIS. Mr. President, I make the point of order against that amendment.

The VICE PRESIDENT. The Senator from Arkansas raises a point of order against the amendment, that it is in violation of section 3 of Rule XVI. The Chair sustains the point of order.

Mr. BACON. Mr. President, I desire to submit a consideration with regard to the question whether the amendment is subject to a point of order. I may be mistaken, but according to my understanding of the rule it is not subject to a point of order. It is not general legislation. It is a matter strictly germane to the measure before the Senate.

The VICE PRESIDENT. The question of germaneness was not raised.

Mr. BACON. But I mean to say it is not a matter separate and apart from it.

The VICE PRESIDENT. The Chair thinks that under the construction heretofore put upon the language of section 3 of Rule XVI the point of order is well taken.

Mr. BACON. I would like the Chair to permit me for a moment.

The VICE PRESIDENT. The Chair will certainly hear the Senator from Georgia if he desires to be heard.

Mr. DAVIS. Mr. President, I will withhold the point of order until the Senator from Georgia discusses it upon its merits, if he desires to do so.

The VICE PRESIDENT. If the Senator from Georgia desires to discuss the point of order, the Chair would be glad to hear the Senator. The Chair did not understand that the Senator from Georgia desired to discuss the merits of the amendment.

Mr. DAVIS. I withhold the point of order only for the purpose of giving the Senator from Georgia an opportunity to be heard upon the matter.

The VICE PRESIDENT. What the Senator from Georgia desired to discuss was the point of order, as the Chair understood; not the merits of the proposition.

Mr. BACON. I did, but if the Senator from Arkansas withdraws the point of order I do not desire to discuss it.

The VICE PRESIDENT. The Chair understood the Senator from Arkansas to withdraw the point of order for the purpose of permitting the Senator from Georgia to discuss the proposition. He does not desire to withdraw the point of order, but to withhold it, as the Chair understood. The Chair may have misunderstood the Senator.

Mr. DAVIS. That is what I desire to do.

Mr. BACON. I presume the Senator would have a right to renew it; but I did not desire, if it was withdrawn, to take up the time of the Senate with its discussion. That was the only point I suggested.

Mr. DAVIS. I withhold the point of order for just a moment. I understand the Senator from Vermont [Mr. PAGE] also desires to be heard upon the matter. I wish to make a brief statement as to the reason why I make the point of order.

This is a case which has been before the Committee on Indian Affairs. It is a claim in the interest of Col. Gordon for certain services he claims to have rendered in securing a large appropriation for the Indians who are the beneficiaries of his work. I am advised that not only Col. Gordon is interested in this claim, but that ex-Senator Marion Butler is interested in the claim. I have seen ex-Senator Butler hovering around the Senate Chamber, and I want to say to you, Mr. President, and also to the Senate, that when I see that gentleman interested in a matter of this kind I at once become suspicious that there is something dead in Denmark. I want to say, sir, that ex-Senator Marion Butler has secured the passage of more claims and fees of this kind through the various committees of the Senate than any other man within my knowledge, and merely to state that Senator Butler has an interest in the matter is of itself sufficient to put the Senate on guard.

This claim, Mr. President, was thoroughly thrashed out before the Committee on Indian Affairs. There was an allowance made by the Court of Claims of $60,000 as a fee in this case. Ex-Senator Butler and his associates, I am advised, sold their fee or their claim or their part of the claim to one of the sharks on the street. The money was collected, and to these three lawyers, Mr. Butler, Col. Gordon, and his associate, the amount when divided was, I believe, something like sixteen or eighteen thousand dollars apiece, after having been cut down by the Court of Claims. The original amount, I believe, was $60,000. The amount to be paid to Col. Gordon has been tied up in court by his own counsel and his co-laborers. They claim that there is some amount due them for expenses and other items.

As I said, Mr. President, this item was thoroughly thrashed out before the committee. The Court of Claims has passed upon it and adjudicated the matter definitely, and simply because Col. Gordon has not been able to collect the money on account of its being tied up in court, is no reason why the Senate should, by this method, allow him this additional fee.

I insist, Mr. President, that the point of order should be sustained.

The VICE PRESIDENT. Does the Senator from Georgia desire to discuss the point of order?

Mr. BACON. I do not know whether the Senator from Arkansas withholds it.

Mr. DAVIS. I withhold it for that purpose, if the Senator from Georgia desires me to do so.

Mr. BACON. Mr. President, I wish to make a simple, plain statement to the Senate without regard to personalities or the question as to whether anybody who is interested is a person of one character or of another. It is a question whether this is a just and a legitimate claim, and I will make a brief statement to the Senate of the facts in order that it may determine that question.

The Government desired at one time to open a reservation in what is now the State of Washington belonging to the Colville Indians. It desired to open the northern half of it. It made a contract with those Indians, under which contract it proposed and agreed to pay $1,500,000 to the Indians. When the act was passed which did open the reservation, after the contract had been made, the position was taken by Senators, and Representatives also, I suppose, that the Indians had no title and that, therefore, while the reservation would be opened, as was proposed, nothing should be paid to the Indians. In other words, the Government assumed to carry out its purpose to open the reservation which it had contracted to open and not to pay for it when it so opened it. That contention was supported by such men as former Senator Orville H. Platt, than whom there was no more influential man in the Senate and no man better acquainted with Indian affairs. His contention to that effect was extremely influential, and the Government acted upon it; it opened the reservation and refused to pay a dollar to the Colville Indians.

Without taking up the time of the Senate in stating details to a great extent, there were two individuals—one Mr. Maish, who was an ex-Member of Congress from Pennsylvania, and a Mr. Gordon, from my State, a son of the former Senator John B. Gordon—who undertook to represent the claims of the Indians and to secure this money for them. They went to the Interior Department first and got the authority of the Interior Department to go among the Indians and make a contract with them under which they would represent them in the effort to secure the $1,500,000 which the Government at one time had promised to pay, but which it had refused to pay.

I will not stop to say anything about the time or the labor necessary to accomplish it, but they did make a contract with these Indians under the authority of the Interior Department, under which contract they were to receive 15 per cent as a contingent fee upon what they should recover from the Government in payment for this northern half of their reservation. That contract was brought to the Interior Department for its approval, and the Interior Department, after examining the contract, approved it, with the modification that the compensation was reduced to 10 per cent. With that contract, the parties thus representing the Indians undertook to secure payment from the Government.

Subsequent to that time numbers of counsel were employed—lawyers or claim agents—to assist in securing payment from the Government. I do not think it can be shown that there was any lawyer, not now mentioning any names, who had any improper employment or who ever exercised any improper influence or attempted to do so, or employed any improper method in the effort to get the Government to pay this $1,500,000 to the Indians.

A part of the contract, or at least one feature of the contract, was that it should last only 10 years. The 10 years were consumed, and, as was subsequently ascertained and determined by the Committee on Claims when the matter was before them, most of the work was accomplished during the 10 years. It is said that would exclude certain other parties who come in and claim that they did work in the two years subsequent to the 10, for it was not until after the expiration of 12 years that the money was actually paid, or rather that the act of Congress was passed which provided for its payment. One part of it is the $300,000 contained in the bill.

Mr. CLAPP. And it is also the last payment.

Mr. BACON. And it is also the last payment; it is the last time when this question can be considered, because it is not a claim against the Government; it is a claim against this fund.

After it had been utterly repudiated by the Government and denied, when the act was passed securing this $1,500,000 to these Indians, solely through the work of those who had done it under this contract, as the 10 years had expired and there was no contract, there was a question as to what they were entitled to be paid, and Congress submitted that question to the Court of Claims.

I think in that Congress made a mistake; that they had the plain contract before them, and it did not require the judgment of a court to determine what they should have under a quantum meruit. Congress had accepted the agreement which had previously been made with the authority of the Interior Department as a correct measure of what should be paid to them. It went to the Court of Claims. I will say, by the way, that not all the counsel were parties to any agreement to have it submitted to the Court of Claims, and knew nothing of it until it was submitted. It went to the Court of Claims and, for reasons which I do not understand at all, the court cut the fee down from 10 per cent——

Mr. CLAPP. If the Senator will pardon an interruption. As I recall it, the Senate provided for paying them $150,000, but in conference that was dropped and the matter was sent to the Court of Claims.

Mr. BACON. I did not know that fact.

Mr. CLAPP. As I remember, I think that was the way it was done.

Mr. BACON. That is a most pertinent fact. I can not understand upon what ground the Court of Claims cut the fee down from $150,000, which was 10 per cent of the $1,500,000 that had been secured to these Indians, to $60,000.

I want to add another thing which is important in this connection. These Indians have not only received $1,500,000 through the labor thus performed, in which labor there is not the slightest vestige of criticism by anybody of any improper method pursued by them in securing the amount; but when the principle was once recognized by Congress that as to the $1,500,000 the title was good—for the Government had refused to pay on the contention that the title was bad, that the title was not in the Indians—when the result was accomplished, and it was determined that the title was in the Indians, it did not apply simply to the northern half of the reservation, but it applied equally to the southern half of the reservation; and since that time the Indians have gotten not only $1,500,000 by reason of this work, but they have gotten the value of the southern half, which has exceeded that of the northern half.

I am told that the department in the meantime has gone forward selling these lands—I mean the southern half—and paying to the Indians what they were entitled to receive; and I am told that, added to the $1,500,000, the value of the sales to them will be about $4,000,000. So out of a title which was disputed and denied by the Government, supported by the contention of such men as Senator Platt, they have received and will receive about $4,000,000. Now, upon what possible ground can it be contended that these lawyers should not be paid for such valuable services?

Mr. OVERMAN. May I interrupt the Senator from Georgia?

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from North Carolina?

Mr. BACON. With pleasure.

Mr. OVERMAN. If I remember the claim correctly, it was put on in a conference report, and it was found it had been put on after the committee had rejected it. I remember there was some debate about it, and I asked the Senator from Minnesota what work these lawyers had done; and I then held in my hand the Supreme Court decision, which said such work as had been done was against public policy, and that therefore any such contract was void in law. Then we agreed here in the Senate that the matter should be sent to the Court of Claims, to decide what was due these lawyers upon a quantum meruit. I ask the Senator from Minnesota if this is the same claim?

Mr. CLAPP. My recollection is that the Senate, in concluding the matter of these appropriations, provided for paying the attorneys $150,000; that is, 10 per cent. I would not state that positively. There are a great many of these cases; but that is my present recollection. Then, in conference, the House conferees insisted on sending it to the Court of Claims, and we finally agreed to it.

Mr. OVERMAN. For a quantum meruit?

Mr. CLAPP. For a quantum meruit.

Mr. OVERMAN. I know it was discussed here in the Senate.

Mr. BACON. Mr. President, I think the fairest measure of what should be a quantum meruit is not only the agreement with the Indians themselves, but the approval of the Interior Department, which is the guardian, as it were, of these wards of the Nation, in which there had been the conservative action of cutting down the amount the Indians themselves had agreed upon to the extent of some 33 per cent. In other words, they cut it down from 15 per cent to 10.

Mr. DAVIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Arkansas?

Mr. BACON. I do; with pleasure.

Mr. DAVIS. In this connection, I desire to correct the statement which I made a moment ago. I had it confused with another matter before me on my desk. I stated that ex-Senator Butler and one of his colleagues sold this particular claim to a

shark on the street. That is a mistake. That relates to another matter that I have before me. But ex-Senator Butler and his colleague did collect the amount found due them by the Court of Claims. Col. Gordon did not collect it. His amount is tied up in court.

Now, I want to ask the Senator from Georgia what is his understanding of the amount ex-Senator Butler is to get out of this claim if it goes through.

Mr. BACON. The amendment as suggested proposes that they shall have the same proportion.

Mr. DAVIS. How much would that be?

Mr. BACON. I have not the figures before me; I can not tell.

Mr. DAVIS. About thirty or forty thousand dollars. Then, another point, Mr. President. It was stated openly in committee, and not denied by the Senator from Georgia, who was then before the committee urging favorable action upon this claim, that Col. Gordon, when he secured this contract, was the private secretary of his father and in the employ of the Government.

Mr. BACON. I trust the Senator from Arkansas will pardon an interruption. I do not think the Senator who made that suggestion made it in such a broad sense. There was a suggestion made.

Mr. DAVIS. There was a statement made, Mr. President, and not denied, not challenged by the Senator from Georgia, who said he had no information upon that subject.

Mr. BACON. That was the best reason why I did not challenge it, was it not?

Mr. DAVIS. It was not challenged and it is not denied. He does not deny it now.

Mr. BACON. Mr. President, the question of the employment by a Senator of his son as a private secretary is a question for each Senator to determine for himself, and about which there is some difference of opinion. I have heard very severe strictures upon Senators who have put their sons in those positions. I have not agreed with them, because I think it is a confidential position in which a Senator can very properly employ his son.

Mr. KEAN. Or his daughter.

Mr. DAVIS. The point is not the employment of the son, but the son's employment—his taking a case against the Government when in the Government's employ.

Mr. BACON. We are coming to that. I was just speaking of the matter generally. Those are matters about which people differ. I have no son myself, and therefore I am not in a position to judge as to what I should probably do in such a case. I say, however, I think it is a very proper relationship, but it is not free from criticism, and very severe criticism, by some of the public.

The Senator properly states that I have no information on the subject one way or the other. I understand, however, that this contract was made, as I said before, by Mr. Maish, now deceased, who was an ex-Member of Congress, and by Maj. Gordon. That does not invalidate in any manner the result. If there were any violation of the law, I have no idea that it was an intentional violation, and it does not affect the question as to what these parties should have. It is not simply Maj. Gordon who is interested in this matter, but all the persons who have been employed under the contract made by Maish and Gordon, who have gone forward, doing 12 years' work, which has had this most exceptional and remarkable and beneficial result in the very large amount of money which has been recovered for these Indians, and of which they will have the full benefit when it is all paid. It is simply a question of what is proper remuneration.

I do not know that I can make the matter any plainer than I have done, and I do not care about detaining the Senate. The fact is simply, as I have stated, that out of a claim which was repudiated by the Government and denied by the Government, the denial being supported by the very strongest men, men having the highest confidence of all Government officials—that out of such a claim, by the work of these men, the Indians have practically got $4,000,000. Now, here is the very last opportunity that will ever be afforded for the payment of proper compensation for that work. This $300,000 is the last of the money that has thus been recovered by the labor of these lawyers. If it is denied this time, it is gone forever. If it is not a proper fee, it ought not to be paid; and if it is a proper fee, I do not think considerations such as those that have been urged should defeat its payment.

The proposition, Mr. President, embodied in the amendment is one which is not entirely satisfactory to all the parties concerned, but it was thought better, in view of the fact that the matter had been before the Court of Claims, which had examined all of the relative services rendered, if Congress should recognize that the original contracts as made with these Indians should be carried out that the proportional distribution should be as it had been determined by the Court of Claims.

I do not think, Mr. President, that the fact that these lawyers had to work 12 years, instead of 10 years, as originally contemplated, should deprive them of the right of proper payment.

The VICE PRESIDENT. Under the rule invoked the Chair thinks the amendment——

Mr. McCUMBER. Mr. President, before the Chair decides the question I should like to make a little inquiry, which is, What is the particular point urged?

Mr. DAVIS. Under clause 3 of Rule XVI the amendment is general legislation.

Mr. McCUMBER. Yes; but what is the Senator's point?

The VICE PRESIDENT. That it is a matter of general legislation, as the Chair understood the Senator from Arkansas.

Mr. McCUMBER. That it is a matter of general legislation? I simply desire at this time to call the attention of the Chair to the text of which the matter proposed is an amendment. The House has sent us a bill which provides for an appropriation for the payment of $300,000. The Senate seeks to amend that by declaring in what way that appropriation that is still being paid out shall be utilized. If that is general legislation, I confess that I am unable to see wherein we can make any amendment whatever to an appropriation bill which appropriates a given sum for a specific purpose, in the matter of limiting the method of making payment or in the matter of making a division. If that is general legislation it certainly does seem to me as though the Senate has little to do with the Indian appropriation bill.

The VICE PRESIDENT. In the form in which the amendment is presented it does more than the Senator from North Dakota suggests. The Chair thinks that in the form in which the amendment is presented it is antagonistic to the rule and can not remain in the bill. The Chair will, therefore, sustain the point of order.

Mr. GORE. Mr. President, I send to the desk an amendment, which I move to insert as a separate section at the close of that portion of the bill relating to Oklahoma. I also send a letter to the desk from the Secretary of the Interior strongly recommending this proposed legislation. I shall not ask to have the letter read to the Senate unless some Senator desires to hear it, but I shall ask to have it inserted in the RECORD.

The VICE PRESIDENT. If there be no objection, the letter referred to by the Senator from Oklahoma will be inserted in the RECORD.

The letter referred to is as follows:

JANUARY 5, 1911.

Hon. CHARLES H. BURKE,
Chairman Committee on Indian Affairs,
House of Representatives.

SIR: I have the honor to acknowledge the receipt of your letter of December 29, 1910, transmitting for report a bill, H. R. 29300, entitled "A bill authorizing the Secretary of the Interior to sell a certain 40-acre tract of land."

The tract described in the bill was included in the lands ordered to be sold under the act of June 17, 1910 (36 Stat. L., p. 533), but was withdrawn from public sale and reserved on the petition of the grand master of Masons in Oklahoma for such disposition as might be authorized by Congress.

The grand master, Mr. George Ruddell, set out the necessity of the Grand Lodge of Ancient Free and Accepted Masons in the State of Oklahoma to acquire title to this tract in order that it might have a sufficient and suitable water supply for the use of the orphanage established by the order on the 640 acres of land in section 25 of the same township, which was sold for that purpose under the act of January 31, 1910. (36 Stat. L., p. 190.)

In view of the benevolent object of the order and the need which the order appears to have for the tract in question, and the further fact that no interests will be prejudiced by the disposition provided for in the bill, it is believed that the proposed legislation should be enacted.

Respectfully, R. A. BALLINGER, *Secretary.*

The VICE PRESIDENT. The Secretary will state the amendment proposed by the Senator from Oklahoma.

The SECRETARY. On page 28, line 11, after the amendments heretofore agreed to, it is proposed to insert:

SEC. —. That the Most Worshipful Grand Lodge of Ancient Free and Accepted Masons of the State of Oklahoma is hereby granted 90 days' preference right, after the passage of this act, to purchase at its appraised value the following-described tract of land, to wit: The southwest quarter of the northwest quarter of section 13, township 13 north, of range 8 west of the Indian meridian, in the State of Oklahoma, and the Secretary of the Interior is hereby authorized and directed to appraise and sell and convey by patent the said tract of land to the said lodge on such terms and conditions as he deem proper, requiring at least 20 per cent of the purchase price to be paid in cash.

Mr. KEAN. Mr. President, that is clearly general legislation. I have no objection to the amendment, but it is clearly subject to the point of order that it is general legislation, and I make the point of order.

Mr. GORE. Mr. President, the amendment is clearly subject to the point of order, but in the letter from the Secretary of the Interior, which I have sent to the desk, he states that he is temporarily withholding this land with a view of seeing what action Congress will take. He states that unless action be taken at this session probably the Masonic order will not have an opportunity to purchase the land. It is only 40 acres, and is situated near the State Masonic Orphans' Home. It contains a fine spring and is desired for use as a waterworks plant in connection with that institution.

Mr. KEAN. Mr. President, may I ask the Senator from Oklahoma if this amendment has been reported by any committee?

Mr. GORE. Not in the Senate nor in the House of Representatives, though the matter is pending in the House committee.

Mr. KEAN. Then I insist upon my point of order.

The VICE PRESIDENT. The point of order is sustained.

Mr. BACON. I would beg permission of the Chair to make a suggestion in reference to a point of order previously ruled upon.

The VICE PRESIDENT. The Chair will be very glad to hear the Senator.

Mr. BACON. If this were a simple claim against the Indians for that much money, independent of this particular fund, I think the ruling of the Chair would certainly be correct; but this is a claim upon this particular fund and not a general claim against the Indians. This is what would be recognized in a court as a lien on a fund. It relates to the particular fund which is being appropriated. I think there is a distinction between that and an effort which might be made to collect some other debt against the Indians, and asking that it be paid out of this fund.

Here is a fund which Congress is appropriating, and this is a part of the particular transaction which brings about this appropriation. Therefore I can not see how it can come under the terms of the rule. The object of the rule, which says that general legislation shall not be permitted, is that independent matter shall not be engrafted upon an appropriation bill. This is not an independent matter; it is a matter which directly relates to and is connected with the provision making the appropriation.

The VICE PRESIDENT. The point which the Chair made was that this is a bill providing appropriations for the Indian Department during a fiscal year. The amendment provides for another appropriation——

Mr. DAVIS. Distinct from this.

The VICE PRESIDENT. For payment at a different time, which makes it a legislative provision in the opinion of the Chair.

Mr. BACON. I presume it is because I am not entirely familiar with this Indian legislation that I do not understand the exact statement the Chair makes.

The VICE PRESIDENT. Here is a provision which, under certain circumstances, might be considered purely as a limitation upon the appropriation being provided for, but the amendment makes provision that the appropriation shall be immediately available, which takes it out of the fiscal year for which we are making the appropriation.

Mr. BACON. I did not know of that, Mr. President, or I would have suggested to the author of the amendment that that ought to have been stricken out. That puts an entirely new phase on it. I did not know that that was in the mind of the Chair.

Mr. OVERMAN. If there is to be any discussion on this matter, I think we might as well adjourn.

Mr. DAVIS. Mr. President, I think the Chair has ruled wisely upon this matter. There is no merit in the case, to begin with.

The VICE PRESIDENT. The matter is disposed of for the present.

Mr. DAVIS. There is no merit in it, and I would be willing to fight it out on that question.

Mr. McCUMBER. Mr. President, in order that this matter may be saved for future determination and that the rights of these parties may in some way be guarded by a full and fair hearing before the Committee on Indian Affairs, I move to strike out the word "three," on line 23 of page 40, and insert in lieu thereof the word "two." The amount appropriated will then be $200,000 instead of $300,000, the last of the Indian fund for that particular purpose, and there will still be retained in the Treasury of the United States $100,000, or one-third of the amount, and that may be acted upon hereafter.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. On page 40, line 23, it is proposed to strike out the word "three" and insert the word "two," so that it will read "$200,000."

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. DAVIS. I object, Mr. President.

The VICE PRESIDENT. The question, then, is on agreeing to the amendment. [Putting the question.] By the sound the "ayes" have it, and the amendment is agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

PENSIONS AND INCREASE OF PENSIONS.

Mr. McCUMBER. Mr. President, in view of the fact that Friday is the day for the consideration of pension bills in the other House and we have had no consideration of our Senate pension bills, I ask unanimous consent that the Senate proceed to the consideration of the two Senate bills on the calendar, being Senate bill 10326 and Senate bill 10327. We can dispose of them very quickly. I ask unanimous consent, first, for the consideration of Senate bill 10326.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 10326) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors. It proposes to pension the following-named persons at the rate stated:

John D. Elliott, late of Company D, Sixth Regiment Iowa Volunteer Cavalry, $24.

Edmund B. Updegrove, late of Company C and first lieutenant Company B, Fifty-fourth Regiment Ohio Volunteer Infantry, $30.

A. Paul Horne, late of Company B, Ninth Regiment New Hampshire Volunteer Infantry, $40.

Dana H. McDuffee, late of the U. S. S. *Monongahela* and *Ohio*, United States Navy, $50.

Charles R. Crouch, late of Company M, Sixth Regiment Kentucky Volunteer Cavalry, $24.

Mary E. Elwood, widow of Azariah S. Elwood, late assistant surgeon, Fortieth Regiment Iowa Volunteer Infantry, $20.

Elisha W. Bullock, late of Company M, Tenth Regiment Illinois Volunteer Cavalry, $30.

John D. C. Herriman, late of Company D, Thirtieth Regiment Iowa Volunteer Infantry, $24.

Russell C. Harris, late of Company A, Eightieth Regiment New York Volunteer Infantry, $30.

George W. Butterfield, late of Company H, Thirty-ninth Regiment Ohio Volunteer Infantry, $24.

Charles W. Eaton, late of Company H, Thirty-seventh Regiment Illinois Volunteer Infantry, $30.

Theodore Parker, late of Company I, Seventeenth Regiment, and Company E, First Regiment, Ohio Volunteer Infantry, $30.

James A. Stephenson, late of Company D, Second Regiment Michigan Volunteer Cavalry, $30.

Lafayette J. Spangle, late of Company A, Twenty-ninth Regiment Indiana Volunteer Infantry, $30.

William G. Stout, late of Company D, Seventy-eighth Regiment Illinois Volunteer Infantry, $30.

Eli Dickerson, late first lieutenant Company D, First Regiment Colorado Volunteer Infantry, and Company C, First Regiment Colorado Volunteer Cavalry, $30.

Leonard Faulkner, late of Company D, Sixth Regiment Illinois Volunteer Cavalry, $30.

Samuel Miller, late of Company C, Eleventh Regiment Illinois Volunteer Cavalry, $30.

James E. Simpson, late of Company G, Third Regiment Illinois Volunteer Cavalry, $30.

George Beaumont, late of Company D, Forty-fourth Regiment Wisconsin Volunteer Infantry, $24.

Joshua Minthorn, late of Company C, Twenty-fourth Regiment Michigan Volunteer Infantry, $30.

Lurinda E. Spencer, widow of Henry C. Spencer, late second lieutenant Company E, Twenty-second Regiment Connecticut Volunteer Infantry, $15.

Rowena M. Calkins, widow of Wilbur F. Calkins, late of Company K, Twenty-seventh Regiment Connecticut Volunteer Infantry, and United States Marine Corps, $16.

Helen G. Berkele, widow of Charles W. Berkele, late of Company C, Third Regiment Connecticut Volunteer Infantry, $16.

Lynderman Wright, late of Company B, First Regiment Wisconsin Volunteer Cavalry, $30.

Samuel Gardner Lewis, late first lieutenant Company F, Seventy-fourth Regiment United States Colored Volunteer Infantry, $30.

John D. Wells, late of Company G, First Regiment Rhode Island Volunteer Light Artillery, and One hundred and fourteenth Company, Second Battalion, Veteran Reserve Corps, $30.

James A. Montgomery, late of Company M, Ninth Regiment Illinois Volunteer Cavalry, $30.

Emil Joerin, late of Company L, Fifteenth Regiment New York Volunteer Heavy Artillery, $30.

Annie T. Penrose, widow of James W. Penrose, late captain Company F, Fifteenth Regiment New Jersey Volunteer Infantry, and major Second Battalion New Jersey Veteran Volunteer Infantry, $30: *Provided*, That in the event of the death of Annie Givin Penrose, helpless and dependent daughter of James W. Penrose, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Annie T. Penrose the name of Annie Givin Penrose shall be placed on the pension roll at $12 per month from and after the date of death of said Annie T. Penrose.

Rufus M. Taft, alias Madison R. Baker, late of Company H, First Regiment Illinois Volunteer Light Artillery, $24.

James Inman, late second lieutenant Company H, Seventeenth Regiment Massachusetts Volunteer Infantry, $24.

Thomas A. Dunham, late of Company B, One hundred and seventy-second Regiment Ohio National Guard Infantry, $24.

Henry Monnahan, late of Companies A and F, Fourth Regiment Illinois Volunteer Cavalry, $24.

William H. Bruss, late of Company B, One hundred and fifty-third Regiment Indiana Volunteer Infantry, $24.

John B. Haley, late of Company H, Second Regiment Missouri Volunteer Light Artillery, $24.

Eugene McNair, late of Company C, Twelfth Regiment Michigan Volunteer Infantry, $30.

James McCartney, late of Company H, Second Regiment Vermont Volunteer Infantry, $36.

William L. Olmstead, alias Charles R. Campbell, late of Company I, Forty-sixth Regiment Illinois Volunteer Infantry, $24.

George Long, late of Company C, Ninety-eighth Regiment New York Volunteer Infantry, $24.

John F. Turner, late of Company D, Fourteenth Regiment West Virginia Volunteer Infantry, $24.

Theodore Lynde, late of Company B, One hundred and twelfth Regiment New York Volunteer Infantry, $24.

David Wilson, late of Company L, Thirteenth Regiment Pennsylvania Volunteer Cavalry, $24.

Thomas C. Crocker, late of Company B, First Regiment Rhode Island Volunteer Cavalry, $24.

Charles E. Armstrong, late of Company H, First Regiment New York Volunteer Dragoons, $30.

George Coose, late of Company E, Eightieth Regiment Ohio Volunteer Infantry, $24.

David Everly, late of Company H, One hundred and sixteenth Regiment Illinois Volunteer Infantry, $30.

Eli Masters, late of Company H, Sixteenth Regiment New York Volunteer Heavy Artillery, $30.

Judson D. Haren, late of Company B, Second Regiment North Carolina Volunteer Mounted Infantry, $24.

Henry V. Steiner, late of Company E, Two hundred and sixth Regiment Pennsylvania Volunteer Infantry, $24.

Isaac James, late of Company B, Third Battalion Eighteenth Regiment United States Infantry, $30.

Peter S. Huffman, late principal musician, Fifty-first Regiment Ohio Volunteer Infantry, $30.

Wallace W. Chaffee, late of Company C, Twenty-eighth Regiment Wisconsin Volunteer Infantry, $30.

John H. Cox, late of Company G, Two hundred and eighth Regiment Pennsylvania Volunteer Infantry, $30.

Clark Jaco, late of Company E, Eleventh Regiment West Virginia Volunteer Infantry, $24.

Lydia A. Patch, formerly Lydia A. Wilson, late nurse Medical Department, United States Volunteers, and former widow of James M. Wilson, late of Company K, Second Regiment Minnesota Volunteer Infantry, and One hundred and fifty-eighth Company, Second Battalion, Veteran Reserve Corps, $20.

Henry Harer, late of Company B, Eighth Regiment Pennsylvania Volunteer Cavalry, $30.

John Patton, late of Company D, Second Battalion, Fifteenth Regiment United States Infantry, $30.

Garrett Conn, late of Company C, Fourteenth Regiment West Virginia Volunteer Infantry, $30.

Charles Nolte, late of Company F, Ninety-eighth Regiment New York Volunteer Infantry, $24.

William J. McElhaney, late of Company I, Seventh Regiment Iowa Volunteer Cavalry, $30.

Thomas Ryan, late of Company C, Fourth Regiment West Virginia Volunteer Infantry, $30.

Orrin Dailey, late of Company A, Sixth Regiment Vermont Volunteer Infantry, $36.

Andrew W. Muldrew, late of Company B, Twelfth Regiment West Virginia Volunteer Infantry, $24.

Granville Farance, late of Company E, Twelfth Regiment West Virginia Volunteer Infantry, $24.

Payne E. Lisenbee, late of Company A, Fifteenth Regiment Kansas Volunteer Cavalry, $30.

Marion G. Dunn, late of Company G, Ninth Regiment Missouri State Militia Cavalry, $30.

Abraham Friedline, late of Company A, Eighty-eighth Regiment Pennsylvania Volunteer Infantry, $12.

Elizabeth Kew, former widow of Mathew Blair, late of Company I, Fifty-sixth Regiment Massachusetts Volunteer Infantry, $12.

Albert H. Jarnagin, late of Company D, Eighth Regiment Missouri State Militia Cavalry, $30.

George T. Myers, late of Company I, Eighty-fourth Regiment, and Company F, Twenty-first Regiment, Illinois Volunteer Infantry, $24.

George Jones, late of Company G, One hundred and twenty-fourth Regiment Indiana Volunteer Infantry, $30.

William H. Brady, late of Company K, Fourth Regiment Indiana Volunteer Cavalry, $24.

William Mott, late of Company K, Forty-second Regiment Illinois Volunteer Infantry, $50.

Polydore R. Pike, late of Company K, One hundred and fifty-seventh Regiment New York Volunteer Infantry, $24.

Christopher Lee, late of Company L, Third Regiment Tennessee Volunteer Cavalry, $24.

Samuel C. Jencks, late of Company F, Ninth Regiment Rhode Island Volunteer Infantry, $24.

John A. Wheeler, late of Company C, First Regiment Vermont Volunteer Cavalry, $40.

Lewis W. Heath, late captain Company F, Eleventh Regiment Michigan Volunteer Infantry, $30.

Joseph Clucas, late of Companies E and F, Second Regiment Illinois Volunteer Cavalry, $24.

James Anthony, late of Company B, Twenty-ninth Regiment Iowa Volunteer Infantry, $30.

Mary F. Venable, widow of Minor Venable, late of Company K, Forty-sixth Regiment Missouri Volunteer Infantry, $20.

Amos L. Jones, late of Company A, Fifth Regiment Vermont Volunteer Infantry, $30.

Isaac Brinkworth, late first lieutenant Company C and lieutenant colonel Thirty-eighth Regiment Indiana Volunteer Infantry, $50.

James Harvey Emerson, late of Company G, Sixth Regiment Missouri Volunteer Cavalry, $30.

Amos R. Walters, late of Company D, One hundred and eighteenth Regiment Indiana Volunteer Infantry, $30.

John Billings, late of Company C, First Regiment, Company G, Twenty-first Regiment, and Company G, Third Regiment, Wisconsin Volunteer Infantry, $30.

Alice Jordan, widow of Hezekiah Jordan, late of Company E, Third Regiment Ohio Volunteer Infantry, $12.

Francis Kelley, late of Company K, One hundred and fifteenth Regiment, and Company H, One hundred and eighty-eighth Regiment, Ohio Volunteer Infantry, $24.

Hester S. Crane, widow of Orrin J. Crane, late lieutenant colonel Seventh Regiment Ohio Volunteer Infantry, $40.

Joshua Burton, late of Company C, Third Regiment Kentucky Volunteer Infantry, $24.

Wiley Burton, late of Company C, Third Regiment Kentucky Volunteer Infantry, $24.

John Brafford, late of Company E, Seventh Regiment Ohio Volunteer Cavalry, $30.

Nathan W. Dawson, late of Company K, Tenth Regiment Michigan Volunteer Infantry, $24.

Frederick O. Hykes, late of Company C, Sixth Regiment Michigan Volunteer Cavalry, $24.

Michael O'Brien, late of Capt. De Goyler's independent battery, Michigan Volunteer Light Artillery, $24.

James J. Boyd, late of Company A, Fifth Regiment Michigan Volunteer Cavalry, $50.

Milton Church, late of Company L, First Regiment Illinois Volunteer Light Artillery, $24.

Greenberry Gabbard, late of Company G, Eighth Regiment Kentucky Volunteer Infantry, $30.

James Thomson, late of Company K, Forty-sixth Regiment Wisconsin Volunteer Infantry, $24.

Abby M. B. Hayes, widow of Charles Hayes, late acting assistant surgeon, United States Army, $12.

James A. Grove, late of Company A, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, $24.

William W. Eckels, late of Company G, Sixth Regiment West Virginia Volunteer Infantry, $24.

Henry Pennington, late second lieutenant Company F, Second Regiment Maryland Volunteer Infantry, and first lieutenant and adjutant Second Regiment United States Volunteer Infantry, $50.

Alexander C. McKeever, late of Company A, One hundredth Regiment Pennsylvania Volunteer Infantry, $36.

Elijah N. Brainerd, late of band, Tenth Regiment Connecticut Volunteer Infantry, $24.

Mary Johnson, widow of Michael Johnson, late of Company K, Fourteenth Regiment Connecticut Volunteer Infantry, $20.

Thomas B. Sperry, late of Company I, Second Regiment Massachusetts Volunteer Infantry, $24.

Joseph N. Harriman, late of Company D, First Regiment Maine Volunteer Cavalry, $30.

William S. Kline, late of Company F, Ninth Regiment New Jersey Volunteer Infantry, $24.

Brice McKinley, late of Company A, Thirteenth Regiment Iowa Volunteer Infantry, $24.

William H. Moeller, late of Company B, Second Regiment Iowa Volunteer Infantry, $30.

Lorenzo D. Shaw, late of Company C, Thirty-first Regiment Maine Volunteer Infantry, $24.

William G. Wade, late of Company D, Twenty-eighth Regiment New York Volunteer Infantry, and Battery M, First Regiment New York Volunteer Light Artillery, $50.

Spencer M. Wyman, late second lieutenant Company K, Twentieth Regiment Maine Volunteer Infantry, $24.

Richard Van Dien, late of Company G, One hundred and twenty-eighth Regiment Indiana Volunteer Infantry, $30.

George F. Smith, late of Company C, Tenth Regiment New Hampshire Volunteer Infantry, $30.

Ione D. Bradley, widow of Luther P. Bradley, late brigadier general, United States Volunteers, and brigadier general, United States Army, retired, $30.

Judson A. Wright, late of Company F, Thirteenth Regiment Michigan Volunteer Infantry, $30.

John Dearing, late of Company I, First Regiment Michigan Volunteer Infantry, $30.

Elmer J. Clark, late of Company K, Sixteenth Regiment Wisconsin Volunteer Infantry, $30.

Samuel Sharp, late of Company D, Fifty-first Regiment Pennsylvania Volunteer Infantry, and Company I, Third Regiment United States Veteran Volunteer Infantry, $24.

Henry G. Rollins, late first lieutenant Company B, Forty-eighth Regiment Massachusetts Volunteer Infantry, $24.

James W. Smith, late of Company E, Fifth Regiment Iowa Volunteer Cavalry, $24.

Henry H. Esty, late of Company B, Eighteenth Regiment New Hampshire Volunteer Infantry, $24.

Ansel W. Fletcher, late of Company M, First Regiment New Hampshire Volunteer Heavy Artillery, $24.

Cordelia Patterson, widow of Robert Patterson, late of Company B, Tenth Regiment Vermont Volunteer Infantry, $20.

Robert C. Pettit, late of Company B, Tenth Regiment, and Company H, Thirty-seventh Regiment, Massachusetts Volunteer Infantry, $30.

Charles H. Turner, late of Company M, First Regiment New Hampshire Volunteer Cavalry, $24.

Olaus H. Lucken, late second lieutenant Company G, Fifty-first Regiment Wisconsin Volunteer Infantry, $30.

James Shaver, late of Company A, Third Regiment Minnesota Volunteer Infantry, and first lieutenant Company F, Eleventh Regiment Minnesota Volunteer Infantry, $30.

William J. Price, late of Company H, Fourth Regiment Wisconsin Volunteer Cavalry, $24.

Smith H. Beeson, late of Company B, Eleventh Regiment Iowa Volunteer Infantry, and Company K, Eighth Regiment Iowa Volunteer Cavalry, $30.

William J. Sterling, late of Company K, Third Regiment New York Volunteer Infantry, $30.

Mary F. Womersley, widow of Alexander Womersley, late of Company B, Eighteenth Regiment Massachusetts Volunteer Infantry, $12.

William H. Brooks, now known as John Hopkins, late of Company H, Fourth Regiment United States Colored Volunteer Infantry, $24.

Leonard Koebler, late of Battery H, Fifth Regiment United States Artillery, $24.

Frederick A. Reen, late of Company B, Seventh Regiment Pennsylvania Reserve Volunteer Infantry, and captain Company B, One hundred and eighty-eighth Regiment Pennsylvania Volunteer Infantry, $36.

Eugene E. Curtice, late of Company A, Eighth Regiment New Hampshire Volunteer Infantry, $24.

Benjamin F. Stowell, late of Company F, Twenty-ninth Regiment Massachusetts Volunteer Infantry, and U. S. S. *Ohio* and *Sacramento*, United States Navy, $24.

Jeremiah P. W. Roach, late of Company B, Battalion, Tenth Regiment Maine Volunteer Infantry, and Company C, Twenty-ninth Regiment Maine Volunteer Infantry, $24.

John Gant, late of Company E, Twenty-eighth Regiment New Jersey Volunteer Infantry, $24.

Hiram W. Crocker, late of Company I, Twenty-first Regiment Massachusetts Volunteer Infantry, $30.

Benjamin H. Macalaster, late of Company G, Twenty-ninth Regiment Maine Volunteer Infantry, $24.

Edward R. Kneeland, late of Company H, Twenty-ninth Regiment Maine Volunteer Infantry, $30.

Nettie E. Higgins, widow of Henry H. Higgins, late of Company G, Eleventh Regiment Maine Volunteer Infantry, $12.

Robert A. Blood, late of Company F, Eleventh Regiment New Hampshire Volunteer Infantry, $24.

Thomas L. G. Hansard, late of Company C, Fifteenth Regiment Missouri Volunteer Cavalry, $24.

Charles H. Videtto, late of Company F, Forty-ninth Regiment Massachusetts Militia Infantry, $30.

Marshall M. Clothier, late of Company F, Thirty-first Regiment Massachusetts Volunteer Infantry, $24.

Dennis Sullivan, late of Company C, First Regiment Kansas Volunteer Infantry, $24.

David Ball, late of Company K, Seventh Regiment Illinois Volunteer Cavalry, $24.

Leander Eddy, late of Company G, Eighth Regiment Iowa Volunteer Infantry, $24.

William H. Blaker, late of Company D, Tenth Regiment Minnesota Volunteer Infantry, $30.

Jacob A. Davis, late of First Regiment New York Volunteer Mounted Rifles, unassigned, $24.

Clement G. Moody, late of Companies I and D, First Regiment Vermont Volunteer Heavy Artillery, $30.

Benjamin F. Morse, late of Company E, Eighth Regiment Vermont Volunteer Infantry, $30.

Isaac C. Vaughan, late of Second Battery, Vermont Volunteer Light Artillery, $36.

Roscoe D. Dix, late of Company K, Second Regiment Michigan Volunteer Infantry, $30.

Michael Lennane, late of Company K, Seventy-third Regiment Illinois Volunteer Infantry, $24.

John Milton Ralston, late of Company D, Fourth Independent Battalion Ohio Volunteer Cavalry, $24.

James W. Bodley, late of Company A, First Regiment Virginia Volunteer Infantry, $24.

William H. Davisson, late of Company E, One hundred and ninety-fourth Regiment Ohio Volunteer Infantry, $24.

Alonzo J. Batchelder, late of Companies H and E, Fourth Regiment Vermont Volunteer Infantry, $30.

Richard H. Hankinson, late of Company D, Eighth Regiment Michigan Volunteer Infantry, and Thirteenth Independent Battery Michigan Volunteer Light Artillery, $50.

Byford E. Long, late captain Company E, Sixty-seventh Regiment Indiana Volunteer Infantry, $50.

Grace V. D. Spencer, widow of Thomas J. Spencer, late of Company I, Twenty-seventh Regiment Connecticut Volunteer Infantry, $20.

Mr. McCUMBER. Mr. President, on page 16, I move to amend the bill by striking out lines 7 to 11, inclusive, the item relative to Isaac Brinkworth. The beneficiary has died since the bill was reported.

The VICE PRESIDENT. The amendment will be stated

The SECRETARY. On page 16, after line 6, it is proposed to strike out:

The name of Isaac Brinkworth, late first lieutenant Company C and lieutenant colonel Thirty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. McCUMBER. I now ask unanimous consent for the consideration of Senate bill 10327.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 10327) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors. It proposes to pension the following-named persons at the rate stated:

Joseph Phillips, late of Company H, Twenty-first Regiment United States Infantry, War with Spain, $12.

August Siebrecht, late of Company B, Sixty-second Regiment Illinois Volunteer Infantry, commissary sergeant, United States Army, $24.

Pearl M. Welch, late of Battery A, First Battalion Maine Volunteer Heavy Artillery, War with Spain, $10.

Pauline S. Bloom, widow of Edward J. Bloom, late first lieutenant, Fourth Regiment United States Infantry, $25, with $2 per month additional on account of the minor child of said Edward J. Bloom until he reaches the age of 16 years.

William Horrigan, late of Company G, Seventh Regiment United States Infantry, $12.

Helen J. Sharp, widow of Alexander Sharp, late captain, United States Navy, $40.

Kate M. Armstrong, widow of Samuel E. Armstrong, late captain, Twenty-fourth Regiment United States Infantry, $30.

Ralph C. Fesler, late of Company K, One hundred and fifty-eighth Regiment Indiana Volunteer Infantry, War with Spain, $15.

John D. Harrell, late of Company A, First Regiment Florida Volunteer Infantry, War with Spain, $20.

Edward O. Berg, late of Company H, First Regiment South Dakota Volunteer Infantry, War with Spain, $12.

Ferdinand Imobersteg, late of band, Eleventh Regiment United States Infantry, $12.

John C. Tripp, late of Company E, First Regiment Maine Volunteer Infantry, War with Spain, $15.

Louisa A. Thatcher, widow of Joseph L. Thatcher, late carpenter, United States Navy, and dependent mother of William J. Thatcher, late chief turret captain, U. S. S. *Georgia*, United States Navy, $24.

Mary Andrews, dependent mother of Eugene O'Neil, late of Company E, First Regiment New Hampshire Volunteer Infantry, War with Spain, $12.

Ada J. Swaine, widow of William M. Swaine, late captain, First Regiment United States Infantry, and major, United States Army, retired, $30.

Robert L. Ivey, late of Capt. William H. Cone's company, Florida Mounted Volunteers, Florida Indian War, $16.

James J. Raulerson, late of Capt. Harrington's company, First Regiment Florida Mounted Volunteers, Seminole Indian War, $16.

Elizabeth P. Bell, widow of Vivian G. Bell, late first lieutenant Company H, Second Regiment United States Volunteer Infantry, War with Spain, $17, and $2 per month additional on account of each of the minor children of said Vivian G. Bell until they reach the age of 16 years.

Sarah E. Dean, widow of Richard C. Dean, late medical director with rank of rear admiral, United States Navy, $50.

James M. S. Wilmot, late of Company C, Thirteenth Regiment Minnesota Volunteer Infantry, War with Spain, $6.

Emma M. Heines, widow of Edward Heines, late of Battery A, Second Regiment United States Artillery, $12, and $2 per month additional for each of the minor children of said Edward Heines until they arrive at the age of 16 years.

Mr. McCUMBER. On page 5, line 5, before the word "dollars," I move to strike out "fifty" and insert "thirty;" so as to make the clause read:

The name of Sarah E. Dean, widow of Richard C. Dean, late medical director with rank of rear admiral, United States Navy, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SENATOR FROM ILLINOIS.

Mr. CUMMINS. Mr. President, I desire to give notice that at the close of the address of the Senator from Indiana [Mr. SHIVELY] to-morrow morning I shall address the Senate upon the Lorimer case.

Mr. KEAN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 42 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 26, 1911, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 25, 1911.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of yesterday was read and approved.

CODIFICATION OF LAWS RELATING TO THE JUDICIARY.

The SPEAKER. This being under the rule calendar Wednesday, the unfinished business is in order.

Mr. MOON of Pennsylvania. Mr. Speaker, I call up the unfinished business of the House on calendar Wednesday.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

A bill (H. R. 23377) to codify, revise, and amend the laws relating to the judiciary.

Mr. MOON of Pennsylvania. Mr. Speaker, on the day when the bill was last under consideration, by unanimous consent certain pending amendments were postponed, to be taken up immediately when the House again resumed the consideration of the bill. Those amendments ought first to be disposed of under that agreement. There was an amendment offered by the gentleman from New York [Mr. BENNET], and an amendment to that amendment offered by the gentleman from Illinois [Mr. MANN].

Mr. BENNET of New York. Mr. Speaker, I am willing to accept the amendment offered by the gentleman from Illinois.

Mr. MANN. Mr. Speaker, the first amendment which would have the right of way is the amendment offered by the gentleman from Indiana [Mr. CULLOP], but I am informed that the gentleman from Indiana prefers to have his amendment wait, and I think there will be no objection to proceeding with the amendment offered to section 116.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 120, line 18, strike out the word "seven" and insert the word "ten."

The amendment to the amendment offered by the gentleman from Illinois [Mr. MANN] is: "Strike out the words 'ten thousand' and insert the words 'eight thousand five hundred,' so that it will read '$8,500.'"

The SPEAKER. The first question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

Mr. BENNET of New York. Mr. Speaker, I desire to submit a few brief remarks.

Mr. MOON of Pennsylvania. Mr. Speaker, the amendment offered by the gentleman from Indiana [Mr. CULLOP], I understand, is postponed until after the consideration of this amendment.

Mr. BENNET of New York. Mr. Speaker, this amendment has to do with the salaries of the circuit judges, of whom there are three in each of the circuits except the second, seventh, and eighth, in which circuits there are four circuit judges. There are nine circuits, and therefore this particular amendment relates to a very few gentlemen occupying these positions of extreme responsibility. Owing to our recognition of the fact that there has been an increase in the cost of living, and an increase in the difficulty in securing the right kind of men for these positions at lower salaries, we have increased many salaries in the last six or seven years. A majority of us, I think, still here voted to increase our own salaries from $5,000 to $7,500 for adequate reasons. We increased them above the salaries now paid to the circuit judges.

These men under the act constituting the circuit court of appeals, the final appellate body in many cases, pass on the great Federal questions which are coming more and more into the court, not only in the East but in the Central West and in the far West. Next to the justices of the Supreme Court of the United States, whose salaries I hope will also be raised by an amendment on this bill, the justices of the circuit court who sit in the circuit court of appeals are the most important judicial officers in our system. It is necessary, therefore, that for these places we should get men of the best and highest caliber. Gentlemen say, Is it not possible to get men for these places now? Of course. It was possible to get men to come to Congress at $5,000 a year, and men are coming here now at $7,500; but we recognized the injustice of compelling 391 men, or the majority of them, to make that financial sacrifice, and we ourselves raised our own salaries to $7,500. We ought to extend

the same measure of justice to these circuit court judges that we extended to ourselves by our own vote.

Mr. BARTLETT of Georgia. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman has expired.

Mr. BENNET of New York. Mr. Speaker, I ask unanimous consent to proceed for five minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. BENNET of New York. Mr. Speaker, I yield to the gentleman from Georgia.

Mr. BARTLETT of Georgia. Mr. Speaker, not entering into any dispute with the gentleman as to the necessity or the propriety of increasing the salaries of the circuit judges at this time, does not the gentleman think that if we increase the salaries of the circuit judges in this bill, in justice to those judges who dispose of the trial business in the courts and upon whose shoulders by this bill we put the disposition and trial of all the business in the circuit courts, who now receive but $6,000, we should return to the paragraph in the bill which carries them, and consider the proposition of increasing their salaries, in fairness to the judiciary of the country?

Mr. BENNET of New York. Mr. Speaker, I say to the gentleman very frankly that I shall interpose no objection to going back to that paragraph, and I would be glad to vote for any amendment the gentleman may offer to increase the salaries of the district judges.

Mr. MICHAEL E. DRISCOLL. I suppose to $100,000?

Mr. BENNET of New York. Oh, I said that the gentleman would offer, and I know that the gentleman is a man of discretion.

Mr. BARTLETT of Georgia. If we increase the salaries of the circuit judges who now by this bill are relieved of the arduous work of a trial judge, who are to be transplanted, so to speak, to the trial of cases in the circuit court of appeals and other duties, I think we ought not to maintain such a great disparity between these two classes of judges, the district and the circuit, so far as salary is concerned, in view of the fact that we have put additional burdens upon the district judge. If the circuit judge goes outside of his circuit, he gets an allowance of $10 per day.

Mr. NORRIS. The circuit judge gets that allowance inside of his circuit.

Mr. BENNET of New York. And the district judge does not.

Mr. NORRIS. Whenever he is away from home.

Mr. BARTLETT of Georgia. The comparison I desire to draw is this: In the State of Georgia we have two district judges, one of whom resides in the city of Macon and the other in the city of Atlanta. The State is divided into different divisions, and they have to leave their homes and go to the various divisions to try the cases, yet they are not allowed their expenses in so doing, as the circuit judges are.

Mr. BENNET of New York. Mr. Speaker, I entirely agree with the gentleman. I know that the gentleman is an old and experienced and valuable Member here, and that he knows that we can amend but one section at a time, but I want to say to him that within the last week I have received a letter from a district judge, a very distinguished district judge in the southern country, whose name I can not, of course, use—a Democrat, one of the ablest district judges in the United States—and he calls my attention to the fact that in his great district, when he travels inside of it, his expenses for travel run between $1,000 and $2,000 a year, and he is not reimbursed for that, while the circuit judge is.

Mr. BARTLETT of Georgia. While this disparity exists between the compensation of the circuit and district judges, you still permit the circuit judge to receive his expenses, and yet make no provision for paying the expenses of the district judge. It is just as important that these judges who try cases in the beginning and on to the end shall have reasonable compensation as that the judges who sit on appeal in those cases shall.

Mr. BENNET of New York. Mr. Speaker, I so thoroughly agree with the gentleman from Georgia that it is a pleasure to be interrupted by him. I desire to say, in addition to what I have already said, that I have introduced a bill, now pending in the Judiciary Committee, to pay to each district judge, to reimburse him his expenses while traveling within his district, and I think very possibly the bill would have been reported before now except for the fact that in the Senate a similar bill has been introduced which passed the Senate and is now pending in the Committee on the Judiciary. I have tried to get that bill out of that committee, and I would welcome the assistance of the gentleman in that respect.

Mr. GOULDEN. Will the gentleman from New York yield?

Mr. BENNET of New York. Yes.

Mr. GOULDEN. Mr. Speaker, not being a lawyer, I desire to ask the gentleman from New York what salaries are paid at this time to the circuit judges and the district judges. The gentleman from Indiana [Mr. Cox], an able lawyer, sitting beside me, seems somewhat in doubt as to the exact salary paid; hence the question.

Mr. BENNET of New York. Circuit judges get $7,000 and district judges get $6,000.

Mr. GOULDEN. My friend from Indiana was right.

Mr. BENNET of New York. The gentleman is frequently right.

Mr. KEIFER. Mr. Speaker, in this turmoil around here we can not hear anything that anybody says, and there is some confusion about what amendment the gentleman is speaking to. I understand he has an amendment offered on a former day, but accepted somebody else's amendment, and I wish he would state exactly the amendment he is in favor of now.

Mr. BENNET of New York. Mr. Speaker, I shall be very frank——

The SPEAKER. The time of the gentleman has expired.

Mr. BENNET of New York. I would like to have time enough to answer the question—I ask for three minutes.

Mr. NORRIS. Mr. Speaker, I ask unanimous consent that the gentleman may have three minutes.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. BENNET of New York. Mr. Speaker, I shall be very frank to my friend from Ohio. There are two amendments pending—one, my own, for $10,000, and one of the gentleman from Illinois for $8,500. I am for the largest sum I can get. Ten thousand dollars is none too high, but $8,500 is better than $7,000. Either sum that the House will vote I shall be very glad to see go through. I think, personally, if $10,000 went through, it would be better than if it were $8,500; but if the House thinks that $8,500 would be more commensurate with the general scale of salaries throughout the whole Government I shall not complain.

Mr. KEIFER. Mr. Speaker, the gentleman has not quite answered my query and that is whether he is now speaking in favor of his own amendment or whether he has accepted the other in lieu of it. I want to know the particular amendment that we are considering.

Mr. BENNET of New York. I say frankly to the gentleman from Ohio that I have more hope of getting $8,500 than $10,000, and I shall personally vote for $8,500, though giving the reasons for $10,000. I trust that is satisfactory. I am also reminded by the gentleman from Pennsylvania [Mr. Moon] that after deliberation the Committee on Judiciary of this House has reported in favor of $8,500 for the circuit judges, and, as I always like to follow a committee, and I think the House does, that is an additional reason why we should increase the salary to $8,500.

Mr. MICHAEL E. DRISCOLL. You say they have reported in favor of $10,000?

Mr. BENNET of New York. No; $8,500.

Mr. NORRIS. Mr. Speaker, I am opposed to increasing the salary of the United States circuit judges. I believe it is a mistake to hang up a salary for the United States judges that is so high that it will attract men simply for the money that is involved in it. There are men, as has been well said, who are on the circuit bench of the United States who would make more money if they were practicing law, but they are on the bench because they prefer and because they like the work of the circuit bench. There are men who refuse to be candidates to come to Congress because there is not money enough in it. There are many men here, perhaps, who could make more money in their chosen profession, or along other lines of business, than they can here, but who prefer to be here because they like the work here. We ought not to put our judiciary in a class that will be above the struggling and common citizenship of the country. They ought to remain where, at least to some extent, their hearts beat in sympathy with the man who struggles, with the man who labors either with his hands or with his brain. If the prize is so great from a financial standpoint that it attracts men simply for the money there is in it, it would lower rather than raise the standard of the judiciary. The United States circuit judge gets a salary of $7,000 a year. He gets an allowance of $10 a day for traveling expenses and hotel bills when he is away from home, so that he is paid $7,000 and his board and lodging, so to speak. He is not subject to any assessment of a political nature of any kind, and his salary, and so does his position, lasts as long as he lives, and it seems to me that with that salary he can be perfectly independent during his entire life of any interest or of any financial consideration that would have a tendency to influence or bias him in any way in his official conduct.

He ought to have that kind of a salary. He ought to be free and independent, and have salary enough so that he can devote his life and his abilities to the official work of his office. When it reaches that point—and, in my judgment, it is there now—it ought not to be increased, because of the tendency it might have to take him into a different class, perhaps, of society, in which the tendency would be to forget humanity, and rather consider, to the exclusion of human rights, the rights of property. Our judges ought to be above want. Any man, in my judgment, can live on the salary and allowances now *given by law to* the circuit judge, and be above all want and privation for his entire life. The salary of $7,000, under the conditions that surround it, given to a circuit judge, is in reality a salary much higher than Members of Congress, for instance, receive, although in dollars and cents Members of Congress are paid more money. It ought not to be so high that it would attract men for a financial consideration. It ought to be where it will make men independent and attract men who go along and work along those lines because their life work and their life inclination lead them that way.

Something has been said in regard to the district judges not being given these allowances. Personally, I would be in favor of returning to that part of the bill where the salary of district judges is fixed and give to them the same travel allowance, the same expense allowance, that we give to circuit judges. We ought to do that. It would be fair, it would be just, and in a great many parts of the country where the districts are large and the judges are away from home most of their time, it would only be a just compensation, to which I believe they are entitled. But that has nothing to do with this question.

Mr. MANN. Will the gentleman yield to a question?

Mr. NORRIS. I yield; yes.

Mr. MANN. The gentleman stated a moment ago that these circuit judges receive traveling expenses and $10 a day when away from home. Of course, that is not the case now.

Mr. NORRIS. The circuit judges?

Mr. MANN. Yes.

Mr. NORRIS. Yes; that is the case now.

Mr. MANN. Only where they are sitting in the circuit court of appeals. We provided at the last session of Congress, in the railroad bill, a requirement that they should sit three judges in order to hear certain injunction suits—applications for injunction. They are required to meet three at a time to do that, but they get no expenses on account of it.

Mr. NORRIS. The facts are that in this bill that we are considering now we provide for their sitting in the circuit court of appeals.

Mr. MANN. Oh, yes.

Mr. NORRIS. Their official work is going to be in the circuit court of appeals. Hence, this $10 allowance will apply to them practically all of the time when they are engaged in official business.

Mr. MANN. When they are engaged in the circuit court of appeals; but we provide also that they shall try cases as district judges.

Mr. NORRIS. There are certain contingencies, I think, in this bill where that will be true; that is, they would try cases as district judges, and under the laws as they exist now they are supposed to hold court and try cases; in fact, that the district judges almost universally try. But if we pass this bill, their time is going to be taken up in being members of and holding court as the circuit court of appeals, and then this $10 applies.

Mr. MANN. In the law we passed in last session we required them to sit in other cases away from home.

Mr. NORRIS. I think there are cases in this bill where they can.

Mr. MANN. There is no provision for the payment of their expenses.

Mr. NORRIS. I have an idea that under this bill, where the provision is made for their trying a case, like a district judge, there is such a provision in the bill, if I remember.

Mr. MANN. Yes.

Mr. NORRIS. They would not get their expenses, perhaps, but that is a small matter compared with the great amount of work they do.

Mr. MANN. Of course, there is no question at all about the future. In the past there have been a good many cases where they are required to sit as nisi prius judges, three of them, without any provision made——

Mr. NORRIS. I will say to the gentleman that I think provision ought to be made to pay their actual expenses, and I would favor that kind of a measure.

Mr. MANN. I have no doubt of that, and I simply call the attention of the gentleman——

Mr. NORRIS. I think the gentleman from Illinois, who is usually right, is right now, although the cases he speaks of would be a very small item, or I supposed it was, at least. I think we should put in a provision that would favor paying the expenses of these judges when away from home when sitting as circuit court of appeals.

Mr. MANN. I will say to the gentleman that there has been a very decided complaint on the part of the judges on that ground, and it ought to be considered at this session. The department has recommended a law that ought to be enacted.

Mr. NORRIS. It is very small in amount; we ought to rectify it; and the judges ought to have their expenses when away from home. I would like the same law to apply to all judges as far as expenses are concerned. I do not believe that their salaries ought to be increased.

Mr. STEPHENS of Texas. Will the gentleman allow me to ask him a question?

Mr. NORRIS. I yield to the gentleman.

Mr. STEPHENS of Texas. My question is, whether or not the salary of the judges of your own State are far lower than the salaries provided for here—are less than the salaries provided in this bill?

Mr. NORRIS. Yes.

Mr. STEPHENS of Texas. Does it not require as much or greater ability to fill those positions? The question is this: Does it not require as much ability and labor on the part of the judges in the supreme court of the various States as it does to fill the office of circuit court judge?

Mr. NORRIS. I think it does. I believe the ability, at least as far as I have been able to observe it, of the supreme judges of the States is equal to that of the United States judges.

Our judges should be absolutely independent of every outside influence and of everything which might have a tendency to in any way interfere with their official duties. They are the most important public officials of our Government. They should be absolutely free and unbiased, so that they can weigh the evidence and decide litigation alike between the rich and the poor, the high and the low. They should never be so far removed from the people—from the common, struggling citizens—that they will forget the just and fair rights of any litigant. The judges' salaries should be sufficient to keep them from want, from privation, from hardship, and to give them all the necessities and all of the reasonable luxuries of life. The salary should never be so high as to attract any man on account of its money consideration alone. The best judge, as well as the best citizen, is the man who realizes that money alone can not bring satisfaction or happiness; that the rights of property, while the same should be protected according to the spirit of the law, should never be permitted to outweigh or to cover up the rights of the individual. Men whose life work and whose life study have been in the direction of an understanding of the law and the principles of equity and justice, and who follow such lines because they love it and not for the money there is in it, are the men in whose hands the scales of justice should be placed.

The salary of the United States judges, with a few exceptions, is greater than the salary of the State supreme judges, and, without disparaging the ability of the United States judges in the least, I want to say that as far as my observation goes the ability of these judges does not surpass that of the judges sitting on the supreme bench of the States. In addition to the increased salary they have a life tenure of office; they retire at the age of 70 years, and the salary continues during their natural lives. A salary of $7,000 a year, together with all expenses, will make any man in almost any portion of our country absolutely independent for life, and permit him to pursue without interruption and without interference the work for which he is or should be fitted, and which to him is the source of more pleasure and gratification than could come to him in any other way. The men who are best fitted for the circuit bench of the United States, and whose study and education make them best qualified to perform its duties, would rather have such a position at their present compensation than to sit in the White House as the Chief Executive of the Nation. If we increase the salary to such an extent that it will attract men to the position on account of its money value alone, we shall lower rather than elevate the standard of our judiciary. [Applause.]

Mr. GRAHAM of Pennsylvania. Mr. Speaker, I understand there are 261 lawyers in this Sixty-first Congress. This includes the Speaker, of whom, however, it has been said that, like the Gentiles of old, "having not the law, he is a law unto himself." The rest of Congress are business men or some other indifferent persons like myself. It ill becomes me, a plain business man, to speak in behalf of judges to 261 lawyers—the Speaker included—but, as has been said of old, "A prophet is not without honor, save in his own country and among his own kin and in his own house." For that reason I open my

remarks by quoting about the Federal judges, of whom I would speak not from what some lawyers have said of them, but the words of a Virginia farmer—planter, I believe, they called him—who appointed the first and original 13 Federal judges for the 13 original States. On September 17, 1789, the day he selected the 13 judges, President Washington wrote these memorable words of these 13 judges to Edmund Randolph, the Attorney General:

> Impressed with a conviction that the due administration of justice is the firmest pillar of good government, I have considered the first arrangement of the judiciary department as essential to the happiness of our country and to the stability of its political system. Hence the selection of the fittest characters to expound the law and dispense justice has been an invariable object of my anxious concern.

I leave it to you, the lawyers of this House, 261 in number—if you include the Speaker—to tell me whether the Federal system Washington thus installed has fulfilled the prophecy of the Father of his Country and has, as he hoped, contributed "to the happiness of our country and to the stability of its political system." I believe it has, and because I so believe I come as a plain business man to a plain business proposition.

The amendment before us provides for a most reasonable increase in the salaries of our Federal judges. In view of the increased cost of living, I believe this increase is due them, and I further believe that the press has, and the people will, back us in making it. You can always trust the fairness of the American people. The American people believe in fair pay for fitting service, and you will find they will approve this increase. Now, my fellow Members, let us be fair and frank in this matter. When we men in Congress felt that owing to the increase in the cost of living it was a simple act of justice that our pay as Senators and Members of the House be increased, we had what these judges have not, namely, the power to raise those salaries, and we did it. I voted for that increase because I thought it was right. I believe the sense of justice of the country at large approved it, and I have yet to hear of any Member of this House who was censured by his people for supporting that measure.

Mr. Speaker, I believe this increase to the Federal judges is an act of tardy justice and that this Congress has set a weighty and worthy precedent in justly raising our own pay. It is feeding men on husks to talk of repaying these men in honor, for in the busy centers where Federal courts are held honor does not pay the prosaic everyday expenses of modern life or educate children. And if honor comes to these men let me say that honor to this branch of our Government comes from them in which we all share. In these days of social upheavals of all kinds, of breaches of trust in business, banking, and corporate circles, I, as a plain, observant business man, have seen nothing that has come through so unsullied and unspotted as the men in whose behalf I raise my voice to-day to you 261 men who ought to be prouder of this record because, in a measure, it is your own.

On looking into the matter, Mr. Speaker, I find my congressional district is in the third of the nine judicial circuits of the country. Scattered through those nine circuits, for example, are 28 circuit judges. I find in my own circuit the State of New Jersey actually pays the 25 judges of its several State courts $30,600 more than the United States pays its 28 circuit judges. Mr. Speaker, this is Jersey justice. In my own State of Pennsylvania I find that, leaving out of account the judges of our supreme court, our highest court, and of our superior court, our second highest court, all of whom are paid still higher salaries, I find that in my own county of Allegheny and in the county of Philadelphia we pay to 27 local common pleas judges, whose jurisdiction extends to but a single county, salaries aggregating $229,500 annually, while the United States pays to its 28 circuit judges, whose jurisdiction covers the whole United States, but $196,000 annually.

Mr. Speaker, if these two States in one circuit and these two counties are right in thus recompensing these judges, and I believe they are, I must confess, though I know nothing of law, as my 261 colleagues do, that this strikes me as an example of State righteousness, if not of State rights, that commends itself to my business judgment. [Loud applause.]

Mr. BURKE of Pennsylvania and Mr. KENDALL addressed the Chair.

The SPEAKER. Is the gentleman from Pennsylvania opposed to the amendment?

Mr. BURKE of Pennsylvania. No; I am in favor of the amendment.

Mr. KENDALL. I am opposed to the amendment.

The SPEAKER. The Chair recognizes the gentleman from Iowa; the gentleman from Pennsylvania being for the amendment, will be recognized next.

Mr. KENDALL. I understand, Mr. Speaker, that I am recognized in opposition to the amendment; to both amendments, in fact.

The SPEAKER. Yes.

Mr. KENDALL. I listened with considerable interest to the suggestions advanced by the gentleman from New York in opening the discussion on his amendment. I dissent from some of the conclusions which he announces. He says that it is becoming increasingly difficult to secure the highest character of talent for circuit bench service. I do not agree with that opinion. I think there never has been a time in the history of our country when more capable men were so disposed to accept service in the judicial department of the Government as at this hour. We have seen that fact illustrated here in this House when one of the ablest Democrats on that side resigned his position here, the tenure to which I am informed was not imperiled, to accept a position on the district bench of the United States at a salary of $6,000 per annum; and we have seen it further illustrated within recent days when one of the strongest lawyers on this floor, a gentleman whose service might have continued indefinitely from the Commonwealth which I have the honor in part to represent, is ready to surrender his membership here to accept a position on the circuit bench of the United States at a salary of $7,000 per annum. [Loud applause.]

We heard here on this floor yesterday a statement, which was not controverted by anyone, that the Government of the United States will soon be confronted with the necessity of a bond issue in time of peace to defray its current expenses. Believing in economy as we profess, are we prepared, as representatives of the people, to sanction the advance in our expenditures which would be required if this amendment should be adopted?

I have no superstitious reverence for the doctrine that the Government ought to be administered with parsimonious economy, but I believe that under existing circumstances we are able to command the highest character and ability for this service. The position continues indefinitely in its tenure, with provision for retirement at 70 years of age, and I believe that we ought to leave the present salary at $7,000 per annum unchanged. It was well suggested by the gentleman from Nebraska that there are no incidental expenses in connection with judicial positions, such as appertain to us. There is no campaign to be prosecuted and no contributions to be donated. The service continues during life or good behavior, and I believe it is adequately compensated not only in money but in honor, in distinction, in opportunity for usefulness, which, after all, are the considerations which appeal to every worthy lawyer who aspires to a judgeship.

Mr. BENNET of New York. Will the gentleman yield to me for a question?

Mr. KENDALL. I will.

Mr. BENNET of New York. Does the gentleman think, because of the condition of the Treasury, we ought not to have passed the pension bill the other day?

Mr. KENDALL. I do not.

Mr. BENNET of New York. Does the gentleman think that on yesterday we should not have increased the salaries of the rural free-delivery carriers?

Mr. KENDALL. No, sir; and the gentleman has put his finger on the point that I regard as a most important consideration to be reflected upon in this House. Always when we are asked to advance a salary it is that of some man at the top. That condition has become chronic here. I protest against that principle. [Applause.] I believe we should remember the more modest and more humble of the public servants in this country. [Applause.]

Mr. BENNET of New York. Did not we vote yesterday to increase the salaries of the rural free-delivery carriers?

Mr. KENDALL. We did; $100; but here you propose to increase the salary of Federal judges $3,000. [Applause.]

Mr. BENNET of New York. If the gentleman will bear with me, there are 40,000 rural delivery carriers. I was perfectly willing to see them advanced, and I have voted twice for that increase. There are 30 of these judges, and the total increase will be $45,000 a year. Does the gentleman think that that will force a bond issue?

Mr. KENDALL. I do not think that it will force a bond issue or precipitate bankruptcy upon the country, but this is only one of a dozen or twenty propositions now being considered by this House that may in the aggregate have the effect to render a bond issue necessary. As one who loves his party, as one who believes in its future as well as rejoices in its past, I do not want to see the Republican Party saddled with that responsibility. [Applause.]

Mr. SISSON. Will the gentleman yield?

Mr. KENDALL. I will.

Mr. SISSON. Is it not true that the judges are appointed for life, and after arriving at the age of 70 years they retire on full pay?

Mr KENDALL. That provision is very plain.

Mr. SISSON. Since that is true, is not that a reason why we ought not to increase the salary of these judges, but might increase the salary of the rural free-delivery carriers?

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. BURKE of Pennsylvania. Mr. Speaker, I rarely disagree with my friend from Nebraska [Mr. NORRIS], but this is one of the occasions in which I am compelled to differ with him in his views on a public question. [Laughter.]

In all seriousness, however, the suggestion made by the gentleman in his argument against this amendment, that the increase of the salary of the judges to the extent proposed will have a tendency to lift them out of their present station in society to a higher station in the social world, and thereby lead them to forget human rights and human liberties, I think, is one of the common fallacies too frequently indulged in in this Chamber. I think it is one that should never find a resting place in the records of this body. The Fifty-ninth Congress raised the salaries of 391 Members in this House, and I defy any man to name one instance where a single Member was led, as a consequence of the raise in salary, to forget human rights or his duty to the American people.

Mr. NORRIS. Will the gentleman yield?

Mr. BURKE of Pennsylvania. I will yield to the gentleman.

Mr. NORRIS. I would like to ask the gentleman if he will not agree to this proposition: That $7,000 for a salary of a circuit judge is at least equal to a salary of $10,000 for a Member of Congress, when you take into consideration the tenure of office and other things that surround the keeping and securing of the office?

Mr. BURKE of Pennsylvania. I do not know, Mr. Speaker, what elements enter into the calculation of the gentleman from Nebraska or what the expenses are to which he refers. They may be heavy in his congressional district, and they may be heavy in others. But, Mr. Speaker, the incidental expenses touching political campaigns should never be made the measure of the justice we should accord to public servants who are not compelled to run for office.

Mr. NORRIS. I want to call the gentleman's attention to the fact that he himself made the comparison between Members of Congress and circuit court judges. We have to be elected every two years. It cost me something. It may be the gentleman from Pennsylvania is looked after otherwise, and that it does not cost him anything.

Mr. BURKE of Pennsylvania. "The gentleman from Pennsylvania" is fortunate enough to be looked after by the people of his district, as he is also in the habit of looking after them.

Mr. HAMLIN. Will the gentleman yield?

Mr. BURKE of Pennsylvania. With pleasure.

Mr. HAMLIN. I understood the gentleman to compare the salaries of the circuit court judges with the salaries of Members of Congress.

Mr. BURKE of Pennsylvania. If the gentleman understood me to compare the salaries of Members of Congress with the salaries of the judges, he is laboring under a misapprehension. The gentleman referred incidentally to the salary of the Members of this House in this respect: The gentleman from Nebraska said that the raise of the salary proposed in this amendment would have a tendency to elevate the judges of these courts out of their present station in society into a higher arena where they would forget human rights and human liberties. I said in reply that there was an example in the recent history of this House when the salary of the entire membership was increased 50 per cent, and yet not a single man could be pointed out who as a consequence of that raise has forgotten human rights and liberties or the duties we owe to the American people.

Mr. HAMLIN. Would not the gentleman, from a money standpoint, prefer to accept the salary of $3,000 in this House if he knew he had a position for life rather than to accept $7,500 with the conditions at present?

Mr. BURKE of Pennsylvania. If I were guaranteed a position in this House during my lifetime I might be willing to serve for nothing for the delightful privilege of being associated with the gentleman from Missouri and his able associates on this floor. [Laughter.]

Now, Mr. Speaker, I think, in addition to what I have already said, that the statement made by the gentleman from Nebraska [Mr. NORRIS] is based upon an assumption that is contradicted by the whole history of American society. In the eyes of sensible people the dollar has never yet created a man's station in the social life of this country, and I believe there is altogether too much of that doctrine preached to the American people, especially to the thoughtless throng who assume there is something in it because it is preached by Members of the House of Representatives, elected to do their duty to and create just impressions among the American people. [Applause.]

Mr. Speaker, there are many reasons why the salaries of these judges should be increased.

No set of men in the service of the United States, when one considers the qualifications required and the service they render, are more poorly paid than the judges of our United States courts, and while the same may have no direct bearing upon the subject at this time, I might add that the same may be said of many of the judges of our courts in the State of Pennsylvania.

No man familiar with the onerous and difficult duties continuously required to be performed by these men will hesitate for a single moment to make their compensation more in keeping with the measure of their duties than it is at the present time. The unthinking may regard them as adequately compensated, but those familiar with the character of their service must readily agree that their present salaries are wholly out of keeping with the modern rewards for service in public and private life.

The years of toil and training essential in the first instance to fit them for their profession, and the struggles they put forth and the talents they develop for the very highest service to the people before they attain their places of distinction on the bench, are too frequently lost sight of by those who attempt to set the standard of their rewards for that service, higher or more sacred than which no public servant can be called upon to perform. [Applause.]

COST OF LIVING.

The standard and the cost of living in every stratum of society has been elevated, and every well-ordered nation expects its public servants to keep abreast of the times, not only in the character of their service but in the manner of their living as well. It neither expects to unduly exalt them by extravagant rewards on the one hand or to demean them by inadequate salaries on the other.

There are many convincing reasons for the moderate advance suggested in these salaries to-day. Since 1901, when the present salaries were fixed, Congress has enacted 1,479 new public laws. These laws are wholly independent of the thousands of private bills that have passed, and all of them concern the administration of the affairs of the people. The Fifty-ninth Congress alone passed 416 public laws, the largest number ever passed by any Congress in the Government's history. As the increase in laws inevitably leads to increased duties and responsibilities upon the part of those charged with the administration of justice—the interpreting and the enforcement of those laws—the enlarged burdens of the judiciary must be manifest to every thinking man. [Applause.]

INCREASE OF LAWS.

In addition to the large increase in the number of laws, I believe it can be said that at no time in the history of our Government has there been more intense activity in the prosecution of offenses and enforcement of criminal statutes and the interpretation of measures for our social, political, and commercial development than at the present time; and all this means additional activities upon the part of our judiciary.

Were we to eliminate both the increase in the number of laws and the increased activity of our departments with reference to those laws in particular, the general growth and development of the country, the multiplication of grave questions arising out of our intense activity in almost every line of life, also has its influence in increasing the work which our courts of justice alone, under the Constitution, are called upon to do.

INCREASED DUTIES FROM NATION'S GROWTH.

With special reference to the United States judges this additional thought may be suggested, indicating the new source of increased duties: The perfection of inventions, the development of trade, the development of means of communication and transportation, and the constantly increasing intimacy of various States and communities with each other, making that which was purely intrastate in its character yesterday interstate in its nature to-day, and thus multiplying the matters over which our United States courts are called upon to exercise jurisdiction.

In the course of this debate I have heard many thoughtless and unjust criticisms of our courts, but I have always attributed them to either the want of knowledge or lack of reflection upon the part of those who made them. Now and then judges may

and do err, as all other human beings are likely to; but the record, as a whole, made by the judiciary of this country is one of the brightest pages in the world's history. [Applause.]

To me it is not strange that criticism should frequently fall upon men called to this high station. Did you ever stop to think that they, of all men in our public life, live in an atmosphere of contention? It is the spirit of controversy itself that brings citizens into our temples of justice; and as, since the world began, two views of all questions have been held, is it strange that the men whose duty it is to decide between the two, whose duty it is in the very nature of things to advance the cause of one and destroy the ambition of the other by a conscientious decision under the law—is it strange, after all, that the shafts of criticism should be directed at them by the disappointed?

Let our action here to-day not partake of that petty character which deals alone with the remote and trivial shortcomings of an occasional individual, but rather of that broad-gauged and generous nature which would rather do justice to the men who constitute that great institution in which the people of the Nation have always had an abiding faith. [Applause.]

Mr. CULLOP. Mr. Speaker, I am opposed to this amendment. I think that these judges are receiving ample compensation, as a rule, for their labors, as much as other departments of similar service, and no occasion now exists for the increase of salary here proposed.

These are high places, and it seems to be the universal rule to increase the salary—a rule which I deprecate very much.

Congressmen have been flooded by petitions from litigants in these courts requesting an increase of salaries for Federal judges. These come from fawning courtiers, hoping to curry favor with the presiding judges before whom their causes are pending. For these, and the purpose which animates their action, I have no sympathy, and look upon them with no concern other than pity.

The people who pay the taxes are already burdened almost beyond endurance, and now it is proposed to add to their burdens by fixing this unnecessary increase of expense. Against it I protest, and appeal to your better judgment to sustain my position.

There are in the neighborhood of 100 of these judges—between 90 and 100—each receiving a salary of $7,000 a year, and it is now proposed to increase it to $8,500. There is another consideration other than salary about the acceptance of one of these judgeships that belongs to no other office or employment that a man can have, and that is he is appointed for life, which is one large consideration of his accepting the appointment. It is a strong inducement to leave other callings and accept this high position when tendered. Whether that tenure is right or wrong I am not here to say, but I do cheerfully say that if that question was before this House for consideration I for one would vote to strike it down. [Applause.] I do not believe in a republic that any man ought to have a life tenure of office. It clothes him with a responsibility and arbitrary power dangerous in a free government to the liberties of the people. [Applause.] Who are the men appointed judges? They come from the walks of life clothed with no higher talents than other men. That it will bring a higher grade of men in the service, as some have claimed, is a mistake. You can scarcely run back over the history of this Government and find when any man has refused an appointment to a judgeship on the Federal bench. Why? Because it is an office of high honor and furnishes a lifetime job with a good salary.

The judges of the supreme courts of the different States of the Union are not paid, as a rule, higher than these judges are paid. The average lawyer, from whom these men are taken, is not making a greater compensation a year, with more expense, than are these judges receiving for their salaries. When one of them is called away from his home in the discharge of his duty he receives an extra compensation. They have easy berths, and all are disposed to hold on to them. Now, why, when this Government is getting ready to sell bonds at an early date to raise money to defray its daily operating expenses, should we sit here and increase the salaries of these men $1,500 a year and increase the deficit in the Public Treasury, when they are already receiving an adequate compensation? Raise these salaries and you make it a scramble among lawyers for the purpose of obtaining the office for the salary alone and not for the high discharge of duty or patriotic purpose to serve the public. The qualifications in very many instances do not enter into the appointment or selection of these judges, but it is on account of association with the crowd that has the longest and best pull with the appointing power. This has been true in too many instances, very much to the detriment of the service. It is not the qualifications that are considered in too many instances so much, but it is what pull and influence the man can command in order to secure the appointment. The interests have figured prominently in too many appointments for the good administration of justice. This amendment ought to be defeated, and I hope it will be voted down, not only because it is an increase of salary not needed but because, also, it will not elevate the character of the judiciary of this country. [Applause.]

The advocates of increase of salaries for high offices always put it upon the ground that it would obtain a better class of talent. This argument is heard daily here, and yet no man points out an example where a single officeholder has resigned because of inadequacy of salary. If this were the controlling consideration in the acceptance of the office, examples would be furnished here of such cases during this discussion. None have been furnished, and for this reason we take it there are none, and take it none will ever be furnished until human nature is changed and ambitions are eliminated from mankind. [Applause.]

Mr. KEIFER. Mr. Speaker, I think I understand that the amendment pending now here, or one that is intended to be pending here, is a proposition to increase the salaries of circuit court judges from $7,000 to $8,500. I think that is a very reasonable increase, all things considered. I do not believe in high salaries for officials, and I do not believe in the extravagantly high salaries paid by corporations, and perhaps by individuals in some instances, to business managers, superintendents, and so on, such as they have in insurance companies and great corporations like the United States Steel Co., and I am not at all certain that these extravagantly high salaries always command the best talent and the men of the greatest probity. But I want to say a word for the circuit judges. They belong to one of the necessary branches of the Government of the United States, without which this country will be always in danger. If we lower the standard of the courts of this country, Federal and State, we lower the character of the Republic and in some degree endanger it. Now, gentlemen undertake to say that we have very properly raised our own salaries and should not raise the salaries of judges, and they talk about the question as though we are to measure these salaries by the talent displayed. That I do not think applies especially to the Congress of the United States, but passing that by, I understand that about the average length of service of the sessions of the Congresses, taking them together, is about 15 months of the 24 months of a term, leaving the other nine months for private business, and so forth. But the judges of the circuit courts have to devote their time, substantially all of it, unless it is the little summer vacation, to their responsible duties. They are cut off in a large sense from even taking care of their own domestic and private affairs. Seldom, if ever, can one of the judges be engaged in any sort of private business or have an interest in a private business at all, and if he does he is criticized, and he has no time to devote to it. These 30 circuit judges are burdened with certain responsibilities and we ought to pay somewhat in accordance with the responsibilities that are thrown upon them. Their importance is hard to measure. They deal with the life and the liberty of people; they deal with great business affairs; they are expected to interpret not only the laws that we pass here but the Constitution of the United States according to its letter and spirit.

These judges have to toil in their rooms, and toil everywhere, and there is no use in talking to me about the importance of giving high salaries to judges in order to increase their social life, for I think they have less of what we call popular up-top social life than any other class of people in the United States.

The SPEAKER. The time of the gentleman has expired. The gentleman from New York [Mr. MICHAEL E. DRISCOLL] is recognized.

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, as one of the 261 attorneys in this body to whom the gentleman from Pennsylvania [Mr. GRAHAM] referred, I am opposed to any increase of these salaries. [Applause.] I come from a State, Mr. Speaker, in which large salaries are paid, and in which my colleague boasts that the largest salaries in the country are paid to judicial officers. My colleague from the city of New York wants to make it $10,000. New York City is great, rich, and powerful, and there is a stream of cash flowing into that metropolis from every part of the country and from every quarter of the world. Ten thousand dollars may not look like a large salary to him. The gentleman from Illinois [Mr. MANN] would compromise it at $8,500, because that represents the relative earning powers of the attorneys of that great city as compared with New York. My friends from Pittsburg, two of them, would make it $10,000 or more if they could. Pittsburg is a large

city. The people are wealthy, and they are levying tribute on the whole country and all the people thereof. [Applause.] I am not surprised that a salary of $6,000 or $7,000 looks small to a prosperous attorney of Pittsburg.

Mr. BURKE of Pennsylvania. Will the gentleman yield? You mean making contributions to the whole country.

Mr. MICHAEL E. DRISCOLL. I mean levying contributions on the business interests and the people of the whole country. I mean what I say, and it was prompted by what the gentleman from Pittsburg said. Now, why increase the salaries? The advocates say the present salaries are not large enough. Have they not been sufficient? John Marshall's salary at its highest was only $4,000.

I carefully read the hearings before the Committee on the Judiciary on the Moon bill. Mr. Hornblower, of New York, was a leader of the delegation that appeared before that committee. Their main argument was that the salary is not large enough, and yet, if I recollect rightly, Mr. Hornblower, a few years ago, was not only willing but anxious to take a place on the Supreme Court bench when the salary was not as large as it is now.

Mr. OLCOTT. Will the gentleman yield a moment? I would like to ask if that is any particular reason why Mr. Hornblower would not sacrifice himself by going on the Supreme Court bench? I did not understand what your argument was.

Mr. MICHAEL E. DRISCOLL. My argument is that it is a great honor, a great distinction, and a great opportunity to have a place on either the district court bench, the circuit court bench, or the Supreme Court bench—an honor for a man who has a competence that is much more than the salary.

Mr. OLCOTT. Why pay them at all if you say it is a man who has a competence?

Mr. OLMSTED. Would you shut out a man who has no competence?

Mr. MICHAEL E. DRISCOLL. No; the salary is enough to support a poor man in comfort, but not in luxury or extravagance.

Mr. PARSONS. The judges in my colleague's county are paid $10,000 a year, are they not?

Mr. MICHAEL E. DRISCOLL. They have been since a year ago last fall.

Mr. PARSONS. By constitutional amendment. Did my colleague oppose that?

Mr. MICHAEL E. DRISCOLL. I do not recollect. If I voted either way I voted against it, because I have not been in favor of increasing the salaries of the high official officers or employees or servants of the Government. I would commence at the bottom in the raising of salaries, if I commenced at all, and give——

Mr. PARSONS. Will my colleague yield? Can he not recollect on this important subject whether he voted for it or against it, or did not vote on it?

Mr. MICHAEL E. DRISCOLL. About two-thirds, perhaps three-fourths, of the voters never vote on constitutional amendments.

Mr. PARSONS. Did not my colleague vote on this important question?

Mr. MICHAEL E. DRISCOLL. I do not think I did.

Mr. PARSONS. How did my colleague vote on the question of the constitutional amendment in the State of New York this year to increase the salaries of the judges of the court of appeals?

Mr. MICHAEL E. DRISCOLL. I do not recollect as to that.

Mr. PARSONS. Is it possible my colleague has no recollection of that important matter?

Mr. MICHAEL E. DRISCOLL. I want to reply to my colleague.

The SPEAKER pro tempore (Mr. OLMSTED). The time of the gentleman has expired.

Mr. COX of Indiana. I ask that the gentleman may have five minutes more.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. MICHAEL E. DRISCOLL. Since my colleague interrupted, I want to say this: A few days ago on the floor of this House he made a statement that the Federal judges are abler than the State judges. He said that the Federal judges were only receiving $6,000 and $7,000, while the State judges were receiving $17,500—$7,000 from the State treasury and $10,500 from the city treasury. Now, if the $17,500 will not secure as good service, as high an order of ability and character, as $6,000 or $7,000, why raise the salary? [Laughter and applause.]

Mr. PARSONS. That argument would apply to us. Why give Congressmen any salary?

Mr. MICHAEL E. DRISCOLL. Well, right there, I submit this proposition directly to this House, that the additional salary of 50 per cent which we paid to ourselves four years ago has not raised the character and personnel of this body one iota [laughter and applause], and it will not in the future improve the character or ability or usefulness of the Members of this House.

Now, since I am relieved from interruption and questions which make continuity of argument impossible, I will state in a more orderly manner the reasons why I am opposed to this salary increase, and in doing this I do not wish to be understood as criticizing or reflecting on the Federal judiciary as a body, or on any of its members, for whom I entertain a very high degree of respect and admiration.

Perhaps a large majority of young men at the time of their admission to the bar hope to become trial lawyers. The excitement of court work and the prompt decisions rendered by juries appeal to their young imaginations and aggressive impulses. They also hope to round out their professional careers with a term on the bench, either State or Federal, where they can enjoy the honor and dignity of the ermine and the respect that is always paid to an able and upright judge. This is especially true of those young men who engage in the study of the law as a profession and not as a business; who prefer the pleasure and exhilaration of highly intellectual work to the accumulation of large fortunes. Such men make the ablest and most honorable lawyers, and are the most reasonable in their fees. In their earlier years at the bar they are glad to prepare and try cases for no other compensation than experience and reputation, and in their later years they are glad to serve on the bench, where they may apply their legal learning, large experience, and mature judgment to the decision of causes, and for the honor and dignity of the position, paying but little attention to the salary that goes with the office.

But very few men are appointed to high judicial position under the age of 40 or over the age of 60. Assume that the average age is about 50. If successful as a practitioner, and fairly economical and thrifty, he will have accumulated a fair competency by that time. If unsuccessful in getting clients and making money up to that age, the chances are that the judicial salary is more than he would make during the remainder of his working years. If a lawyer has enjoyed a large and lucrative practice up to that time and has spent it, it is quite certain that he will continue to spend it to the end. Luxurious and extravagant tastes are not apt to be checked in this fast-living day and generation.

I would not care to be the client of an attorney who spends his money before he gets it and is always in debt. He is apt to measure his fees according to his necessities; nor is he just the kind of man who should be elevated to the bench, even if mentally qualified. The position and title of judge are looked up to, not only by the profession but by the people generally and he should be a model citizen as well as a learned, upright jurist; and there is an abundance of such men in every State and judicial district who are willing and anxious to serve on the bench without an increase of the present salaries.

No doubt there are many brilliant and successful attorneys who earn very large incomes and spend them like lords on themselves and families who can not accept Federal judgeships on the present salaries unless they or their wives have private fortunes, for they would not be contented or happy with the modest and comfortable living which those salaries provide. But the salaries fixed in the Moon bill or in this amendment would be no temptation to them; and there is no attempt to raise the salaries so high as to be an inducement to such men, who think more of large fees and grand and expensive living than of the honor and dignity of the office. The Government can not secure the services of those men, for they are not willing to make the financial sacrifice.

I look upon a place in the Supreme Court, or in the district or circuit court of the United States, as a position of very high honor and dignity, and especially as an opportunity for the right man to serve his country and leave his impress for good on its institutions by sound and righteous decisions and by doing his part to preserve the Constitution in its purity and vigor. I object to such a position and such an opportunity being measured by the dollar standard.

During the early years of my practice there was an elderly gentleman who sold apples and oranges in the front of the hall of the old courthouse in Syracuse. He was at all times so happy and cheerful that it occurred to me he was making good profits in his business. One morning I asked him how much he made. He answered, "About $2 a day—$1 in cash and $1 in pleasure." The ideal judge gets $7,000 a year in honor, dignity, and opportunity for welldoing and $7,000 in cash.

The ideal judge is a man who engages in the practice of law as a profession and because he loves the work; who is willing to make sacrifices that he may ultimately succeed, and is not bent on getting rich quick; whose word is as good as his written stipulation; who is candid with the jury, honest with the court, and courteous with his opponents, never hitting below the belt; who establishes a reputation for fair dealing and loyalty to his clients, builds up a practice with good ability and hard work, and saves a little money from year to year for his old age and for the maintenance of his family in case of his disability or death; who sticks to the practice of the law as his life work, and then, if judicial honors come to him, accepts the preferment for the dignity and recognition and better opportunity of rendering some enduring service to his countrymen. Such a man was the great John Marshall. Such were the very large proportion of the Federal judges since the adoption of the Constitution, who were glad to round out their professional careers on the bench, giving less thought to the salary than that the hopes and ambitions of their earlier days were realized. Those men were the judges who, by their honest and fearless decisions, maintained the integrity and independence of the judicial department and enjoyed the respect and confidence of their countrymen. The courts of to-day, with rare exceptions, are composed of such men, and there are plenty of lawyers of equally high character and ability and aspirations who will take their places when they are gone.

This amendment is only a part of the Moon bill reported from the Committee on the Judiciary, and I have carefully examined the hearings before that committee. Mr. William B. Hornblower, of New York City, was the chairman of a delegation who appeared before that committee in favor of the Moon bill, and he made the principal speech for higher salaries. Among other things he said:

> Yet these underpaid judges are called upon to decide cases involving millions of dollars, as well as great principles of law, and to construe the Constitution in new questions that arise, and they are expected to keep their judicial robes spotless from even the suspicion of corrupt motives, and they have, thank God, almost, if not quite, without exception, thus far lived up to this reputation. It is a matter of constant and growing amazement to me when I think of the weakness of our human nature and the proneness of men to yield to pecuniary temptation. It is, I say, a matter of constant amazement and growing amazement and constant and growing admiration for this body of men that, almost without exception—I do not say absolutely without exception, for there may be sporadic cases which have come under the notice of one or more of you gentlemen where there has been some suspicion—but, so far as my knowledge goes, without exception, and, so far as my information goes, almost without exception, these men who occupy the Federal bench have stood pure and upright. They have been called upon to dispose of property rights involving millions and they have frequently been called upon to make allowances to counsel and to referees far in excess of their own judicial salaries, and yet they have performed this duty with Spartan sincerity and simplicity.

I fully agree with Mr. Hornblower that "these men who occupy the Federal bench have stood pure and upright," but to me that is not a matter of "constant and growing amazement." They are exactly the type of men I have described. They were honest attorneys and they are honest judges; that is all. They are inherently honest men of stern integrity, and are proud of their positions and jealous of their reputations. They did not accept their high judicial positions because they were in need of the financial returns, nor do they measure them by the dollar standard. Does Mr. Hornblower imagine that an increase in salary would exalt the character of those men? Does he think that $3,000 a year would make a corrupt judge "pure and upright," or that he would not "yield to pecuniary temptation?" Did he ever know a man in whom love of gold was a passion and whose chief aim in life was the making of money who ever had so much that he did not want a little more? And does he not know of many men who esteem honesty above wealth and a fair name and fame above the high living which much money will provide? He may have intended the above statement as a compliment, but it impresses me as a reflection, not only on our judiciary but also on our citizenship. High character can not be purchased with money. It is the result of inheritance and good resolutions faithfully kept.

The next speaker before that committee was the Hon. Eugene B. Saunders, of New Orleans, La., who was put in evidence by Mr. Hornblower as an exhibit. He was a judge, but is not now, except in title by courtesy. He went on the bench in 1907 and inside of two years he resigned because, according to himself, he found it almost impossible to meet his current expenses with the current salary, and before he was on the bench a single year he was convinced that he would have to resign. He knew what his necessary expenses were when he went on the bench. He also knew what the salary was and had no assurance of an increase. Yet he accepted, and inside of two years resigned, capitalized his reputation, acquaintance with his brothers on the bench, and his title of "judge" and returned to practice, where I hope he is making good money. He and two or three others were the only judges these gentlemen could think of who ever resigned and returned to practice, which indicates that it is not at all difficult for the Government to get and keep good and competent men in its courts of justice.

It may be said of Judge Saunders that his recommendations are consistent with his record. He would raise the salaries of district judges to $12,000 a year, of circuit judges to $13,500 a year, and of Supreme Court Justices to $30,000 a year, so that the Government could compete with private interests in securing the best legal and judicial talent. He says:

> The Government is pursuing the policy of allowing the big corporations—the big aggregations of capital, the business interests of this country—to outbid the Government when it comes to getting legal services. The leading men, the leading lawyers, the ablest men in that respect, ablest in character, ablest in learning, are the men that the corporation gets, and the men who represent the corporations and business interests of this country as against the Government; and that is going to be increasingly and more and more the case as time goes on, for the expenses of living are increasing now. Can this great Government, when it goes into the market to bid for legal services, consent to have itself outbid by private citizens and private interests who are bidding for the same services? Is it possible that this Government is going to allow private citizens to offer better inducements to legal talent than the Government itself can afford to offer?

I do not question that those big corporations and big aggregations of capital do retain some of the ablest, shrewdest, and most resourceful lawyers to show them how they may evade, circumvent, and break the laws of their country with impunity; but I do not admit that they are the "ablest in character." That would be a reflection on the American bar, which I can not let pass unchallenged. Can it be that our profession has sunk so low that there are not in it some men who would refuse to assist those big aggregations of capital in establishing gigantic monopolies and industrial slavery, whatever may be the proffered fee? This is a utilitarian age, in which the dollar is esteemed too highly; and yet I have faith to believe that there are plenty of able and learned men in the profession of high character and commanding ability who would prefer fighting those big aggregations of capital and keeping them within the law, getting their pay principally in the consciousness that they are rendering a great service to their countrymen and to the Republic.

The Government does not have to go into the open market and bid for the services of the highest class men, or the men best fitted by character and attainments to become able and upright justices; nor until the ideals of our people are much lower than at present will it be compelled to do so. The ermine is a cloak of distinction. It is a very high honor to be called to the Federal bench, and the more important the cases and the greater the responsibility the higher is the honor. To the ideal judge the salary is an honorarium, while the dignity, power, and opportunity are the main considerations. The dollar mark is stamped on every sentence of Judge Saunders's address.

The Hon. John J. Herrick, of Chicago, was next called before that committee. He said he heard of a Supreme Court Justice who died leaving his family unprovided for. But has not that happened to many brilliant and successful lawyers who never served on the bench and to able men in all callings and all professions? Some great lawyers and judges are very poor business men. They indorse for their friends and make bad investments and lose their money faster than they make it. This exception proves the rule to be the other way. In his argument that the present salaries are inadequate, he says:

> How, then, can it be expected that with the other duties attending upon a judge, looking to the future, when he is asked to take these positions for life, that he shall leave the certainties of his practice and come into this position with all the chances and the difficulties of the future before him?

With all respect to Mr. Herrick, it seems to me that when an attorney is elevated to the bench he leaves all the chances and uncertainties behind him. He has a life tenure. He is the most independent and secure of any man I know of. He is not subject to the people's will, and changes of administration can not disturb him. He can not be removed except by impeachment and for glaring acts of misconduct. After he has served 10 years and has reached the age of 70, he may retire on full pay during the remainder of his days. The Federal judge is certain of an income for life, in the form of salary or pension, on which he can live, not in great style or extravagance, but with ease and dignity, and that is one of its attractions. On the other hand, the lawyer at the bar has no guaranty for the future. The corporation attorney may have a sure income as long as he stands in with the management, but a general practitioner's receipts vary from year to year according to the volume of his business and success in his cases, while his office expenses continue with embarrassing regularity. From every pecuniary point of view a promotion from the bar to the bench is a transition from uncertainty to certainty.

Again, as a rule lawyers are not "asked to take these positions for life." Federal judgeships have never gone begging, and I have no idea they ever will. Did you ever know of a vacancy for which there was not a multitude of candidates, many of them able, honest, and worthy men, who are not only willing but anxious to take the position for life? That is a very worthy and wholesome ambition, and I hope it will continue to animate the profession. The phase of the matter that makes me a little impatient is that some of these candidates, who strain every nerve and pull every wire for the appointment, are hardly warm in their seats when it occurs to them that the salary is inadequate, and instead of resigning they proceed to agitate and lobby for an increase. In these appointments the contract with their Uncle Samuel is one-sided. They may hold their positions for life, but they are not required to do so. They may resign, as Judge Saunders did, if they are not satisfied with the work or the pay.

The principal argument of Mr. Louis Brandeis, of Boston, was that since a judge should not deal in speculative ventures nor invest in what are known as business stocks, and that his investments should be in securities of a staple character, his salary should be raised. That limitation in investment would be greatly to his advantage. My experience and observation is that if all lawyers were prohibited from investing their savings in any but the best securities at a small rate of interest—Government bonds, if you please—they would, one with another, be much better off than they are now.

Mr. C. K. Offield, of Chicago, is a patent lawyer whose practice is entirely before Federal judges, and he naturally likes to be recognized as a friend of the court. He ridicules the additional appropriation that the Moon bill would require as a trifle, saying, "It does not compare with the value of the bone thrown by the housewife to her dog," and submits to the Congress the following swaggering and insulting proposition:

> If you can fix it we will pay the expenses, if that is the trouble with the United States Government. We will pay—and I speak for the patent bar and the patent lawyers and the litigants—we will gladly, without a murmur, and without feeling that it is a burden, pay this increase, as we call the pittance, to these Federal judges.

Mr. Edward Q. Keasley, of Newark, N. J., would have the salaries of Federal judges raised in order to set a standard for the States and enable them to increase the emoluments of their judges. Apparently he thinks the Federal judges are now quite well paid, compared with the salaries of the State judges.

My distinguished colleague, Mr. PARSONS, of New York, closed the case before the committee, and in his opening remarks said:

> There are only two arguments that I have heard against increasing the salaries of the Federal judges since I have been in Congress. One is that you can get judges for any salary. So can you get Congressmen. That argument is not a tenable one. The other one is that in some parts of the country the salaries which the Federal judges now get are greater than is the compensation earned by the leading members of the bar.

These are two excellent arguments, because they are true. Let me ask my colleague these questions: Four years ago we raised the congressional salaries 50 per cent. Has that improved the membership of either House? Has it made them more industrious, efficient, honest, or patriotic? Would not our colleagues from all over the country have continued in this House, if they could, without this increase of salary? Have any higher class men sought membership in either body since that increase? He is a candid, fair-minded man, and will be compelled to admit that the only possible benefit or advantage from that advance of salary would come to the Congressman. I will go further and say that if the increase of salary will have any effect on the personnel of this body, it will be to lower its general average in ability and character by tempting men to run for Congress who would be indifferent about it under the old salary; and the man who cares nothing for the honor or the opportunity of membership in this House, and comes only for the salary, will lower its standard. Also the man who seeks a place on the Federal bench only for the present or proposed salary will be no credit to it.

All the lawyers who addressed the committee, save Mr. Lamar, of Atlanta, Ga., and Mr. Braxton, of Richmond, Va., are from large and wealthy cities, where successful attorneys make large incomes, compared with which the judicial salaries are too small to be an attraction.

Hard-working and successful lawyers in smaller cities and towns must be contented with smaller incomes, because the amounts involved are smaller; but they, nevertheless, are as learned, able, and honest, and quite as good judicial timber. A salary that would approach the receipts of a leading lawyer in New York, Chicago, or Pittsburg would be unreasonably high in most parts of the country, for it would be out of all proportion to the incomes of the best lawyers, and that is not at all necessary to attract the fittest men to the bench.

According to the statements filed before the Committee on the Judiciary, the highest judges' salaries paid in 41 out of the 50 States and Territories of the Union, including Hawaii and the District of Columbia, are $6,000 or less; in 36, $5,000 or less; in 20, $4,000 or less; and in 16, $3,000 or less. It would not be fair, or is it necessary, to increase the present salaries of district and circuit court judges in order to secure the best talent in those 41 States and Territories. Envy and jealousy in the hearts of the State judges would immediately arise and they would proceed to inaugurate a campaign for increases. They would use the Federal salaries as a fulcrum to pry up their own. That is exactly what Mr. Keasley wants, and that is exactly what I do not want.

In the list of States the salaries of justices in New York are given as $17,500, which is a little disingenuous and misleading. Until a year ago the salaries paid by the State were $7,000, which was raised to $17,500 by the city government of New York and out of its own treasury. I have a notion that was the result of political influence, and was not necessary in order to get competent men.

The gist of all the arguments before the committee was that the present salaries are not enough; yet they are more than are paid the highest justices in most of the States, and very likely they are paying all they can well afford. It is enough to maintain any well-regulated family in comfort. It is enough, with the retirement pay and the security, honor, and distinction which go with the office, to secure the fittest men in every part of the country, for the fittest men for judges are not those who love money above honor and distinction.

President Taft was a Federal judge and a good one. He was young, strong, and able, and could have made much more money in the practice of the law in a large city. He had a family to support and educate. Yet he accepted a place on the bench and would have continued there had he not been called to more responsible and arduous work in the service of the Nation, where it was not possible to save a dollar, and he has been making financial sacrifices ever since, all because he is actuated by higher motives than the accumulation of wealth.

Senator ROOT presided at the convention of the New York State Bar Association held in Syracuse a few days ago at which higher judicial salaries were recommended, yet he has been in the service of the Nation during many years past as Secretary of War and Secretary of State, and now as Senator from New York. Why did he accept those offices? Were the salaries the prevailing inducement? Why did he argue the international case before The Hague Tribunal without money consideration? Why did Gov. Hughes accept the call to the Supreme Court? Why do our great Cabinet officers and Senators serve the Nation for mere pittances compared with their earning power? Why have men spent several times the congressional salary for seats in this House? The reason is obvious. They were glad to make the financial sacrifice for the honor and opportunity of high and responsible office. To them the making of money is not all there is of life. Strip those offices of the glamour and the honorable estimation in which they are held by our countrymen, reduce them to a money basis, and increase the salaries several times, could you fill them with as able, honest, and patriotic men?

The Moon bill, if enacted into law, will raise the salary of the presiding Justice of the Supreme Court from $12,500 to $18,500, of the Associate Justices from $12,000 to $18,000, of the circuit court judges from $7,000 to $10,000, and of the district court judges from $6,000 to $9,000. It is claimed that this additional expense is a mere trifle to this rich country, and that the Government should not hesitate to grant it. But this is only one of very many extra appropriations that are demanded at the present time. If the homely old adage, "Take care of the pennies and the dollars will take care of themselves," were more generally practiced, it would save many men from bankruptcy and many others from the poorhouse.

The civil employees of the Government, and there are about 384,000 of them, with rare exceptions are demanding higher pay and that a civil pension list be established. The war veterans are appealing for larger pensions. The Army and Navy think they should have more money, and the organized militia of the States insist that they be put on the Federal pay roll. Many of our people think we are not properly prepared for hostile attacks and are urging larger military and naval establishments and equipments. We are now receiving letters from commercial bodies recommending more expensive homes for our diplomatic representatives, which in turn will require larger salaries for their maintenance.

This is not all. Physicians are demanding a department of health, teachers a department of education, and the workmen a department of labor, each of which would require a small

army of employees who would constantly extend the sphere of their usefulness and the dimensions of their appropriations. Commercial bodies, business men's associations, and agricultural societies are holding conventions and adopting resolutions memorializing Congress to engage the Government in many new and expensive activities for the welfare of the people in general and of themselves in particular. Some want their shallow streams made into navigable rivers. Some want their canals dug. Some want their arid lands irrigated. Some want their swamps drained. Some want their mountains purchased and reforested, and some want their country roads constructed. Most of these things the States and civil divisions thereof should do for themselves. But they have got into the habit of calling on their Uncle Samuel as though gold fell into his coffers from the clouds, as manna fell from heaven to feed the children of Israel. This is only a partial catalogue of the demands made on the Federal Government through the action of Congress in addition to the necessary current expenses, which are considerably in excess of $1,000,000,000 a year, and we have got so far with the Isthmian Canal that it must be completed and fortified.

Judicial salaries are a small item compared with some of these projects, but a few hundred thousand here and a few millions there count up pretty rapidly. The cost of living is rising, and a fixed salary does not reach as far in the support of the family as it did a few years ago. I do not wish to compare our Federal judges with the Government civil employees in the lower grades, and yet those men are much more in need of increase of salaries than are the judges. Very few of them have been able to save anything, especially if they have families to support and educate, and they find it harder and harder to make ends meet. They are doing their work in their limited spheres as faithfully as are the officials higher up, and the men who are struggling to live and support their families on small incomes appeal to me quite as strongly as do the judges.

But there is another class of citizens whose rights and interests should be considered in every additional expenditure, viz, those who pay the bills. A few years ago, when the current receipts were in excess of the expenditures and a large surplus was in the Treasury, the raising of salaries and the many new and increased appropriations were looked upon with complacency by the masses of the people. It seemed as though that were favored as a good method of getting the money out of the Treasury and putting it into circulation. That condition no longer exists. The Government is facing a deficit and may be compelled to issue bonds to meet its current expenses. Governments, like individuals, should, under normal conditions, live on their incomes. The future will have its own burdens to bear. Every dollar that comes into the Federal Treasury is taxed out of the people in one form or another, and the vote last November indicated that they are beginning to realize it.

Beer is a cheap beverage and sugar a cheap food. Both are taxed, the latter heavily, from which about $125,000,000 are raised annually. Every pound of table sugar pays a tax of 1.9 cents. This is a tax from which the people would like to be relieved, but they can not be at the present time, for the revenue is necessary, and additional taxes will have to be levied unless the country is more conservative in its demands on the Federal Government. The Government is the steward of the people to administer the public affairs. The Congress is an important branch of the National Government, for it holds the purse strings. It levies the taxes and makes the appropriations. The masses of the people who pay those appropriations should be considered. This amendment would not entail a relatively large expense, but the principle obtains. Take care of the thousands and the millions will take care of themselves. This increase is not necessary. It would open the doors for a general raise of salaries of the high officials of the Government, which should not be done in the present condition of the national finances.

Mr. MOON of Pennsylvania. Mr. Speaker, I ask unanimous consent that anyone who desires to extend remarks in the RECORD upon this subject may be permitted so to do.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent that any gentleman desiring to extend remarks upon this subject may have that privilege.

Mr. STAFFORD. Reserving the right to object, there should be a limit of days.

Mr. MOON of Pennsylvania. For five days.

Mr. BARTLETT of Georgia. Reserving the right to object, I ask that I may have permission to print in the RECORD on this subject of the increase of salaries for district judges a petition and memorial of the bar and business men of my home city and State. If this consent is given, then I will have no objection.

The SPEAKER pro tempore. Will the gentleman from Pennsylvania modify his request as suggested?

Mr. MANN. If consent is granted, the gentleman can insert it.

Mr. BARTLETT of Georgia. I want special permission to print this.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT of Georgia. The petition I referred to is from the mayor and council and city officers, county officials, judges of the courts, the chamber of commerce, Federal, State, and county officers, bankers, merchants, and prominent business men of the city of Macon, Ga. It is as follows:

MACON, GA., *January 17, 1911.*

To the Senate and House of Representatives of the United States:

The undersigned, citizens of the southern district of Georgia, respectfully represent to your honorable bodies that, in view of the increased cost of living and the increasing importance of their labors, the United States district judges have a just claim upon the country for an increase in their means of support at least equal to that recently and justly voted by the Members of Congress for themselves.

The case in this district is typical. The judge has jurisdiction in admiralty, common law, equity, bankruptcy, criminal law, antitrust law, interstate commerce, safety appliance, and similar laws; the appointment of United States commissioners, referees in bankruptcy, examination and approval of accounts of disbursing officers of the district. The probability is that these judges will soon be intrusted with all the jurisdiction of the circuit judges, except that of the Commerce Court. In population the district doubles the whole State of Florida, probably in wealth also. The entire seacoast of the State, with the third cotton port and the first naval stores port in the world; with the duty of trying such cases as that of United States *v.* Greene and Gaynor, for embezzlement of millions from the Public Treasury; of Tift *v.* The Railroads, to restrain and recover for arbitrary exactions of illegal combinations in increase of lawless rates, for their injunction, for actual recovery and restitution to shippers of several millions; of the rights of shippers against the initial line and connecting railroads under the Hepburn Act, just affirmed by the Supreme Court of the United States, affecting the commerce of the entire country; of United States *v.* Naval Stores Co., where the first sentence of imprisonment under the Sherman law was secured and affirmed on appeal. The President declares the great questions of the day are court questions. These are judges of original jurisdiction, without verdicts in their courts the appellate courts are helpless to enforce the law and protect the people. They are the only officers of the court whose expenses, while serving the Government away from their homes, are not paid. The Constitution provides that their salaries shall not be diminished during their term of office. In this district when the judge was appointed, 26 years ago, there were two divisions in the district; there are now five, with many terms of court. It placed new duties upon the judges involving absence from their homes and entailing great expense, and would seem to be such decrease. If the judge here was obliged to attend every term fixed by law his expenses would consume a large part of his salary. He does all of the work of the circuit court, except appellate work. The circuit judge has visited the district in the last quarter of a century but one time in every six years. The cost of living is about double. To keep out of debt, pay taxes, carry a modest insurance to protect his family is to drive a public servant, of the utmost importance to the people, to straits which no man with such responsibilities should suffer at the hands of a country to whose services nearly his entire manhood life has been devoted.

We respectfully petition that the district judges be at once granted an increase of salary equal to that enjoyed and earned by the Members of Congress.

Respectfully submitted.

John T. Moore, mayor city of Macon; R. Smith, city clerk; W. L. Wasne, Brotherhood of Locomotive Engineers; Hugh McKerry, justice of the peace; H. F. Holmes, city marshal; Roland B. Hall, inspector; A. W. Lane, city attorney; E. H. Mallory, attorney and member faculty Mercer Law School; H. V. Napier, jr., attorney at law; E. W. Maywood, attorney at law; R. L. Anderson, attorney at law; J. N. Talley, attorney at law; S. H. Heyward, jr., attorney at law; R. H. Smith, clerk city court; Walter A. Harris, attorney at law; R. D. Feagin, attorney at law; Julian F. Urquhart, attorney at law; H. Needeain, assistant postmaster; W. D. McNeil, attorney; Chas. Cork, attorney at law; C. A. Glowson, attorney at law; R. C. Jordan, attorney at law; Roland Ellis, attorney at law; Wm. H. Felton, judge superior court; Robt. K. Nisbet, clerk superior court, Bibb County, Ga.; John B. Harris, attorney at law; Joe I. Hall, attorney at law; Jno. R. L. Smith, lawyer; W. A. Thompson, lawyer; Lenoir M. Erwin, United States commissioner; Arthur H. Codington, assistant United States attorney; The Citizens' National Bank of Macon, Ga., by E. W. Stetson, president; J. Cray Murphy, vice president; J. N. Neel, vice president; Fourth National Bank, Macon, Ga., J. F. Heard, president; Chas. B. Lewis, vice president; Geo. R. Turpin, vice president; The American National Bank of Macon, by Sam E. Doty, cashier; Continental Trust Co., by R. J. Taylor, president; The Commercial National Bank, of Macon, Ga., by Cecil Morgan, vice president; Commercial Savings Bank, by J. J. Cobb, cashier; Macon Savings Bank, J. W. Cannon; H. T. Powell, cashier; president Macon Gas Light and Water Co.; J. E. Ellis; Geo. B. Jewett; J. I. Lord; W. F. Clark; J. A. Dunwody; A. S. Hatelen; H. L. Barfield; C. B. Withington, jr.; R. E. Willingham; R. H. Sissons; E. Tris Napier; A. A. Johnsen; C. W. Johnsen; Harry W. Freeman; J. L. Crump; J. A. Flournoy; W. A. Goodyear; I. E. Houser; B. T. Adams; L. Lavar; H. J. Lamar; Chas. H. Core; P. T. Anderson; A. R. Dunwody; W. W. Hertz; S. Lyman; F. Sprinz; F. S. Gutenberger; F. H. Powers; J. R. Holmes; G. H. Tharp; Frank P. Mansfield; W. I. Smart; Ben Martin; M. H. Taylor; S. C. Moore; W. A. Wilder; R. L.

Knight; J. E. Bailey; J. W. Rundell; Chas. A. Hilbun; Geo. Watson; J. M. Head; T. T. Middleton; Nat R. Winship; J. C. Edwards Co.; Sandersville Insurance Agency, J. M. New, manager; J. C. Robinson, manager Morris & Co.; W. K. Young; C. F. Middlebrooks; T. R. Hendricks; J. E. Jandon; James Platt; Gus Bennet; McAllister Isaacs; C. N. Pierce; W. T. Anderson; Harry C. Mix; Robt. S. Yang; Wm. Lee Ellis; R. D. Aultman; Ralph Harper; L. P. Lester; Max Lazarus; Chas. Wachtel; H. E. Gibson; Morris Putzel; Isidore Putzel; Richard P. Orme; T. Lee Floyd; J. B. Williams; G. G. Coffy; S. J. Mays; G. W. W. Reis; C. R. Pendleton; R. L. McKenney; Franc Mangum; T. J. Simmons, jr.; L. J. Kilburn; N. D. May; D. Nitman; L. M. Jones; T. L. Funderbark; W. W. Jones; Morris Harris; Isaac Herman; Geo. F. Wing; Gart Dohn; Hank B. West; G. W. Stratton; Eugene Anderson; W. W. Merriman; R. J. Taylor; Irving Pine; T. M. Jelk; W. D. Lamar.

Mr. GOULDEN. Mr. Speaker, being only a layman and business man, this proposition would seem from the discussion to affect only 261 Members of this House. It looks like a quarrel among the lawyers, and therefore it might be a good idea that others like myself, business men, keep out of this scrap. However, we have the same rights here, and therefore I shall undertake to say a few words. I find on examination that there has been no increase in the salary of the judges for seven years. In the meantime we have increased the salary of the President, members of the Cabinet, and that of Senators and Congressmen, and very properly, too, in each case. I do not agree with my distinguished friend and colleague from New York [Mr. MICHAEL E. DRISCOLL] in what he says, that there has been no improvement in the caliber of our Members. I wish to controvert that. I am one of those who voted for the increase from $5,000 to $7,500 for ourselves. I believed then, and am confident now, that it was the right thing to do. I was one of those who voted for all the increases, and do not regret it. The laborer is always worthy of his hire.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield?

Mr. GOULDEN. Certainly.

Mr. MICHAEL E. DRISCOLL. Have not those same men been able to come back?

Mr. GOULDEN. No. There is an exception in the speaker himself, who will retire voluntarily at the end of this Congress and give way to a new man. A number of good men in my district grew ambitious when the salary was increased.

Mr. MICHAEL E. DRISCOLL. Does the gentleman think the next man in his place will be an improvement?

Mr. GOULDEN. I believe the Sixty-second Congress will be an immense improvement over the present one, because it will be in the control of this side of the House—of the grand old Democratic Party. I believe that this $7,500 salary has had something to do with this improvement, as it has attracted a good class of superior men all over the country.

Mr. NORRIS. Will the gentleman yield for a question?

Mr. GOULDEN. No; I can not yield further, as I have but five minutes. I do not wish to be discourteous to the gentleman from Nebraska, but my time is limited. Now, Mr. Speaker, the salaries having been increased all along the line, it seems to me to be proper to increase the salaries of these judges, who are made up of the highest class of lawyers—and all lawyers of the House, I believe, belong to this class—because $7,000 is not a sufficient amount, in my judgment, to justify the right men in accepting these places, owing to the increased cost of living.

Now, as to the allegation that raising the salaries will bring about a different class of men, less worthy, to the bench—why, the President has honored this body within a year by selecting one from that side of the House in the person of the gentleman from Iowa [Mr. SMITH] for the circuit court bench, and on this side of the House by the selection of the gentleman from Texas, Mr. Russell, for the district court—both high-class appointments. I believe these men are of the highest character and in keeping with the appointments to the judiciary made by Presidents in the past. This reflects credit on our Chief Executives.

Take the supreme court in the State of New York, which my friend Mr. DRISCOLL represents in part; they are paying $17,500 to those judges, and I have no doubt the gentleman from New York is favorable to that, and yet with that salary it is impossible always to keep the men on the bench or induce the best men to accept the place. Only last year a distinguished judge of that bench resigned because the salary was not sufficient to enable him to educate a large family and live properly. If that is true there, it is true in every large city in the country, and I trust that this amendment increasing the salary of the circuit judges to $8,500 will prevail and that we will secure for this high office first-class men and that they may receive the compensation that they are entitled to. I am also in favor of raising the salary of the district judges. That should be increased to $7,500. There are 29 of the former and 90 of the latter. If the salaries are all increased $1,500, the total expenditure would be $178,000 yearly. On the other hand, a large saving in other directions will be made should this bill become a law. Taken all in all, these increases should be made in the interest of good government. [Applause.]

Mr. OLCOTT. Mr. Speaker, I do not wish to prolong this discussion unnecessarily, but I do wish to express my feeling that the salaries of the Federal judges should be increased. I will vote for this amendment, but would prefer to see the salaries fixed at $10,000. As a matter of fact, it is true that on many occasions superior men that the President has tried to get for the bench have declined to serve.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield?

Mr. OLCOTT. Certainly.

Mr. MICHAEL E. DRISCOLL. Is it not a fact that there was a vacancy on the bench in the eastern district in New York and that there were a dozen candidates, all good and able men?

Mr. OLCOTT. I have never known a vacancy to occur in any office, elective or appointive, that there were not dozens of men applying for the position.

Mr. MICHAEL E. DRISCOLL. And good men.

Mr. OLCOTT. It is not fair to ask practicing lawyers to abandon large income and place them on the bench, where their salaries are entirely inadequate. I mean it is not fair to the country. The gentleman from Nebraska, when he first spoke, suggested that this raise in salary from $7,000 to $8,500 was going to put the men in the category of taking the place on account of the money there was in it. I do not believe that any judge that was ever appointed to a Federal court took it for the money that was in it. I appeal to gentlemen not to put these judges in a position where they have to curtail their living expenses because they are not properly paid. It is not right. [Applause.]

Mr. SULZER. Mr. Speaker, this proposition to increase the salaries of the Federal judges is a matter of importance to the people, and I desire to say a few words about it. In my judgment the present salaries of our Federal judges are inadequate to the positions occupied and the great service rendered. We do not pay our Federal judges enough, and every person who has investigated the subject knows it. These learned Federal judges pass upon the most momentous questions of law and fact affecting the life and the property of the citizens of our country, and they should be paid wages sufficient to keep them from want and temptation. In the city of New York a police judge gets $10,000 a year and a circuit judge of the United States only gets $7,000. The comparison is absurd. Everybody knows it. These Federal judges must live according to their station, support their families, educate their children, and do it all on this meager $7,000 a year compensation. We expect too much. We are often penny-wise and pound foolish. The people of our country, regardless of politics, believe, in my opinion, that all the Federal judges—these wise and just and able men—whose labors are increasing every year, are not paid sufficiently for the great work they do, especially when we consider the tremendous responsibility which rests upon them in the administration of the great office they occupy. So far as I can learn, the taxpayers of the Republic have no objection to materially increasing the salaries of our Federal judges. They should have been advanced when all the salaries of other officials were increased. I favored it then, and said so, and because it was not done I voted against increasing my own salary.

That was the time to do it. I am willing to do it now, and for some time past I have indulged the hope that the Judiciary Committee would have the courage and the good sense to bring in a bill to materially increase the salaries of all the Federal judges of the United States. It should be done because it is just and right. We honor the Federal judiciary; we have confidence in the integrity, the ability, and the learning of our Federal courts. We should pay the judges decent salaries. To do less is unfair and merits rebuke and criticism from the people.

Mr. JAMES. Mr. Speaker, the other day the gentleman's colleague, Mr. PARSONS, of New York, asserted that the Federal judges in New York were far superior to the State judges, notwithstanding that the Federal judges got only $7,500 and the State judges $17,500. In that view of it, could we get superior talent for more money? The gentleman's colleague does not agree that that has been the result in the State of New York.

Mr. SULZER. Mr. Speaker, in reply to the gentleman from Kentucky, I want to say that if my colleague made such a statement I certainly do not agree with him. In my judgment, we have upon the bench in the State of New York as able and profound lawyers as there are in the country. That is

generally conceded. They are well paid, and I am glad of it. So far as I know, no taxpayer is finding fault. The people want judges learned in the law—honest and fearless—who will do justice to all, and they are willing to pay them decent wages. It is well known that our Federal judiciary is very poorly compensated, especially in view of the increased cost of living, and when we take into consideration the ability, the high character of the men occupying seats on the Federal bench, and the grave problems they are continuously called on to solve for the best interests of our country. We want the best men we can get on the Federal bench, and the people will find no fault if we pass a bill to pay them enough to live decently. That is all there is to it. But this is a proposition to increase the salaries of the circuit judges only fifteen hundred dollars a year. It is a small increase, and it ought to be granted. We ought not to quibble upon a little matter like this, all things considered, especially when we realize that we are expending millions and millions of dollars for purposes on which, if we desired, we could reasonably economize. We are too generous in big things; too small in little things. We should be just in all things.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. CAMPBELL. Mr. Speaker——

The SPEAKER pro tempore. Does the gentleman desire to speak for or against the amendment?

Mr. CAMPBELL. I desire to speak in opposition to the amendment.

The SPEAKER pro tempore. The Chair will recognize the gentleman from Kansas.

Mr. CAMPBELL. Mr. Speaker, I have been waiting for some time for some one to give a real good reason for this amendment.

Mr. SULZER. Well, didn't I give a good reason for it? [Laughter.]

Mr. CAMPBELL. In all probability the gentleman from New York [Mr. SULZER] has convinced himself that he did give a good reason. However, it has not been shown to this House that $7,000 a year is not a sufficient salary for the circuit judges. In the first place, their expense is provided for, their books are purchased, their stationery is purchased, their office rent is free, and they are paid their traveling expenses and their hotel bills when they are away from home.

Mr. GOLDFOGLE. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I can not yield. Much reference has——

Mr. TAWNEY. If the gentleman will permit, he is not exactly correct in his last statement about their being paid their expenses when away from home. They are not unless they sit in an adjoining circuit. In their own circuit they are not paid.

Mr. CAMPBELL. Oh, no; these are the circuit court judges about which I am speaking.

Mr. NORRIS. They are paid their expenses when away from home in their own circuit. These are the circuit judges.

Mr. TAWNEY. I was referring to the district judges.

Mr. CAMPBELL. This amendment refers to the circuit court. Much reference has been made to the increase in the salaries of the Members of the House. I voted against that increase, and I have not noticed very much difference in the annual savings of the Members' salaries. The hotels, the boarding houses, the apartment houses, and those who have houses to rent in Washington seem to have a system whereby they can collect from the Members of Congress about all of their salaries, whether it be $5,000 a year or $7,500. That increase is not an argument with me for this increase. Many good lawyers are always anxious to get on the circuit court bench. There is not a lawyer in this House who would not yield the position that he now holds, even if he knew that he would not have a contest during his natural life, for a position on the circuit bench.

Mr. BURKE of Pennsylvania. Well, here is one who would not.

Mr. HAMILTON. And here is another who would not.

Mr. CAMPBELL. That may be; but I venture the assertion that 90 per cent of the lawyers of the country would be glad to have the honorable position of a seat upon the circuit court bench at a salary of $7,000 a year or at a salary of $6,000 a year.

Mr. SULZER. And I suppose if a man was a rich man he would take it for nothing. I am in favor of the poor man getting a job now and then.

Mr. CAMPBELL. And some of the greatest opinions have been handed down by men who were serving for a smaller salary and for love of the position and love of the law.

The office of circuit court judge is of such dignity and character, and in its tenure and in the fact that after a service of years the judge may be retired at full pay, he does not need to worry about his living expenses, for he has enough to live upon comfortably. Any man can live comfortably on $7,000 a year in the United States. Thousands of men live decently and well on much less than that, and I am not in favor of increasing salaries to officials in the United States above a salary sufficient to provide for the comforts of the officers. These circuit court judges live as well as others in the communities in which they live, and the average income of the best citizens of the United States does not rise to $7,000 a year.

Mr. GOLDFOGLE. Mr. Speaker, I favor the proposed amendment, for, in my judgment, the salaries of the United States judges should be increased. I am surprised at the gentleman from Kansas [Mr. CAMPBELL], who has just taken his seat, suggesting that no salaries ought to be paid to lawyers willing to accept the honorable office of Federal judge. In the district from which I come——

Mr. CAMPBELL. I hope the gentleman from New York will not put me in the position of saying that I would pay no salaries.

Mr. SULZER. Will the gentleman permit a question?

Mr. GOLDFOGLE. I will.

Mr. SULZER. Mr. Speaker, I would like to ask the gentleman from New York to tell how much he got when he was district judge in the city of New York, years ago.

Mr. BENNET of New York. And what the salary is now.

Mr. GOLDFOGLE. The judges of the supreme court, which is the highest court of original jurisdiction, receive $17,500 per annum, and the judges of the municipal court in the city receive $8,000 per annum. We do not consider that we are paying any more than a fair and reasonable compensation for judicial service well performed. I do not know what salaries are paid to the judges of the higher State courts in Illinois, but I presume that in Chicago, from whence comes the gentleman who offered the amendment, the expense of living is comparatively as high as it is in New York.

To ask the Federal judges to perform their labors for a much less compensation than that paid to the judges in the State courts in these places is unfair. They deserve higher pay; they earn it fairly. Their present compensation is regarded, at least by the bar of my city, and I believe by the community generally, as inadequate.

Mr. MICHAEL E. DRISCOLL. Will the gentleman permit an interruption?

Mr. GOLDFOGLE. I will.

Mr. MICHAEL E. DRISCOLL. Is the gentleman aware of the fact that now in 41 out of 50 of the States and Territories of the Union, including Hawaii and the District of Columbia, the highest salaries paid judicial officers are $6,000 or less, and in 36 of those States and Territories the highest salaries are $5,000 and less, and in 20 of those States and Territories the highest judicial salaries are $4,000 and less?

Mr. GOLDFOGLE. I know that in some of the States the judges are underpaid. The cost of living has increased, and seems to be growing higher as time runs on. A judge must maintain himself and family in a manner becoming his station. A great Government, such as ours, should be willing to pay adequate salaries to men whose talent and legal attainments fit them for these high judicial and honorable positions.

Men whose ability and high professional standing fit them for the Federal bench, and who can command large fees at the bar, should be fairly remunerated. With the growth of the country, with the increase of commercial and financial conditions, there is an increase of litigation in the courts. The work of these judges is well and faithfully performed. The country owes it to itself to give sufficient pay for honest, able judicial service. To do less is to hold out little or no inducement to our judges to remain on the bench, when to return to practice at the bar they could earn probably ten times more. I trust that every gentleman of this House who appreciates the great value of a faithful, talented, and incorruptible judiciary will vote for the proposed increase.

Mr. PEARRE rose.

The SPEAKER pro tempore. Does the gentleman desire to speak for or against the amendment?

Mr. PEARRE. I desire to speak against the amendment.

Mr. Speaker, being one of the members of the bar of the House of Representatives who has very decided convictions on the policy of the Government provided in this amendment, I feel called upon to express my views to my colleagues in the House. I feel, Mr. Speaker, that this is a matter of such importance that it should be dealt with in a calm, dispassionate, and judicial fashion, and in what I have to say on the subject I shall endeavor to think upon it in that way and to treat it in that way.

Mr. Speaker, I am not one of those who would belittle the judiciary of the United States or the judiciary of any State, but I must say, Mr. Speaker, that there seems to me a little hysteria upon this subject of the judiciary in the United States recently—a hysteria, sir, which seems to lead public men and a great many of the people to a tendency to re-create the adage or maxim that "the king can do no wrong." Now, sir, we have done away with and eliminated in this world that maxim, under which absolute monarchy attained its consummation and greatest strength and tyranny, namely, that "the king can do no wrong." But do not let us make the grave error of substituting for that the maxim "the judiciary can do no wrong."

Being a member of the bar, Mr. Speaker, and the son of a judge who was a member of the bar of the State of Maryland and sat as a judge in the courts of that State for many years, I can claim in this question to be entirely impartial and unprejudiced, and if partial at all, partial to the judiciary and to the profession. But, sir, I believe that there should be no divinity which should hedge a judge any more than there should be a divinity which should hedge a king, but that the judiciary and the individual judges should have just as much respect as they earn by their attitude, by their ability, and the integrity which they display in the performance of their public duties. Do not let us, Mr. Speaker, run into the hysterical idea that simply because a man is taken from the bar and elevated above his fellow men to the bench, either by a popular election in the State, which is the system in the States, or by appointment to the Federal judiciary, which is the system and practice under the Constitution as to the Federal judges, let us not run into the error that simply because that elevation takes place the man is imbued with some peculiar afflatus from above which renders him not subject to just and proper criticism.

I think, sir, that the judiciary ought to have notice, not only in the States but in the United States, that they themselves, by their own conduct, by the display of ability, and by the exercise of integrity and honesty, must maintain the high standard of reverence for the law and for the great administrators of the law that should characterize the judiciary in this country.

Now, Mr. Speaker, I want to call attention to one or two matters to which attention has been called by other gentlemen who have addressed the House upon this subject, and especially to this: I am opposed to all these increases in salaries of men who now occupy exalted positions in the United States. Let us increase the salaries of the men who get the meager salaries. Here we have the appeal from the White House; we have it from the Cabinet; we have it in their reports; we have it in the message of the President; we have it in the reports of the heads of every department as they are successively made to this Congress to cut out all slack, to eliminate unnecessary expenses, to keep the expenses of the Government within the revenues of the Government, so as to avoid an issuance of bonds in a time of peace. That appeal has been wisely made; that appeal has been patriotically made. Therefore, Mr. Speaker, I appeal to my fellow colleagues in the House here not to disregard that by running into these wild extravagances. And if any increase can be justified let those increases be made, sir, in the increase of pay to the teachers and in pensions to the old soldiers.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PEARRE. Mr. Speaker, I ask unanimous consent that my time may be extended for five minutes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. PEARRE. Mr. Speaker, if there be any increases, let those increases be in the way of a retirement fund for the teachers, which was defeated here the other day by depriving the District Committee of its just rights under the Constitution and depriving the citizens of this great District of its proper representation and its rights upon this floor. Let there be liberal pensions, Mr. Speaker, for the old soldiers; let there be increases in salaries, if you will, in favor of the rural free-delivery carriers, the letter carriers; in favor of post-office clerks and others.

Why does not the argument that there has been an increase in the cost of living apply with a great deal more force to those than to gentlemen, many of whom have independent means, and all of whom are now enjoying not only positions for life, without any fear for the future, but positions that pay them an adequate salary—$7,000 a year—with additional compensation defraying their expenses when they travel away from their homes, and a pension on retirement after they reach the age of 70, when they become superannuated, upon a full and unstinted salary?

Now, Mr. Speaker, the gentleman from Pennsylvania, I regret to say, has fallen somewhat into a hysterical method of considering this question; and in that hysteria it is rather natural for a gentleman representing the great, wealthy Commonwealth of Pennsylvania, and particularly the wealthy city of Pittsburg, where most men have dollars where the balance of us have cents [great laughter]—I do not wonder that the gentleman looks upon the present salaries as meager and therefore advocates larger salaries. But the gentleman fell into one error, Mr. Speaker. That error was when he said that the business was increasing by reason of Federal legislation which made a great deal of intrastate commerce, or what had been intrastate commerce, interstate commerce. The gentleman, however, overlooks this fact, that there is not a session of Congress when the Judiciary Committee does not report one or more bills providing for additional judges and erecting new districts to take care of the increasing Federal business arising from the conditions which the gentleman described.

Now, Mr. Speaker, gentlemen from New York have spoken eloquently upon this subject and referred us to the other States which have not seen fit to give these elaborate salaries to their State judges. But gentlemen from New York City must remember that New York City is the great emporium or financial center of the United States, to which cities and States represented by the other Members of this body pay continual and unending tribute financially. No wonder New York has seen fit to give its judges large and copious salaries from the treasury of the State.

Now, Mr. Speaker, the gentleman from New York [Mr. GOULDEN] said, referring to the very liberal salaries allowed to the judges of New York being commensurate with their duties, that he recognized that the judges are underpaid in other States. Why, if the gentleman reflects, he will see that most States of the Union, as my friend from New York [Mr. MICHAEL E. DRISCOLL] indicated and called his attention to, pay very much less salaries than New York. New York is the exception to the rule that is established in the other States; and if New York therefore pays its judges high salaries, there is no reason why that should constitute any analogical reason for the increase of salaries here.

Mr. GOLDFOGLE. Will the gentleman allow me to ask him a question? But before putting the question, we do not pay our judges too much; but does the gentleman——

Mr. PEARRE. The gentleman said the other judges were underpaid.

Mr. GOLDFOGLE. The Federal judges were underpaid.

Mr. PEARRE. The gentleman from New York said the State judges were underpaid.

Mr. GOLDFOGLE. They were, in my judgment, underpaid, especially having in mind the district judges, by reason of their great ability.

Mr. PEARRE. I yielded to the gentleman for a question.

Mr. GOLDFOGLE. Does the gentleman think that the salaries of the judges in such a district as, say, Chicago, St. Louis, San Francisco, and other sections in which large cities are located, are properly paid?

Mr. PEARRE. I am not familiar with the duties of those judges and I can not answer the gentleman's question; but I do say that if they are paid more than $7,000 they are paid too much. [Applause.]

Mr. GOLDFOGLE. Does the gentleman from Maryland think——

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. PEARRE. I am perfectly willing to answer the gentleman's question if I have the time.

Mr. GAINES. Mr. Speaker——

Mr. GOLDFOGLE. Does the gentleman from Maryland think that the sum of $7,000——

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. GOLDFOGLE. I ask that his time be extended for three minutes.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent that the time of the gentleman from Maryland be extended three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. PEARRE. I will be glad to answer the gentleman's question if I can.

Mr. GOLDFOGLE. Does the gentleman think that a salary of $7,000 per annum is an adequate and a fair compensation to one who has so conducted himself at the bar as to win the approbation of the brethren at the bar and is capable of discharging his duties with ability and fidelity on the bench?

Mr. PEARRE. In answer to that question I will say unequivocally yes; it is ample compensation when you consider especially that the judges are appointed for life and are retirable at 70 years of age at full salary. [Applause.]

There is another feature which has been overlooked, and that is the honor of serving on the Federal bench has been minimized. Has it come to this point in the Government of the United States when honor is to be considered a bauble and everything is to be measured by dollars? God grant the day may never come when the judiciary of this country shall be tainted with that sort of poison. [Applause.] I believe there should be some sort of patriotic purpose in American citizenship, and I know as a matter of fact that the United States judges whom I know, and against whom I desire to submit no word of detraction, are as fully paid as they should be, and are being paid every dollar which their industry, their integrity, and their assiduous attention to public duties justify. [Applause.]

Mr. GAINES. Mr. Speaker, I am quite reluctant to engage in this discussion in view of the fact that it has been very much prolonged already. But my conviction is so firm that the Federal judges should be better compensated that I venture to ask the indulgence of the House to consider a little further the merits of the question.

The judiciary of this country is more important and more powerful than in any other great country in the world, arising from the fact that the judges of this country may hold an act of the legislative body unconstitutional. This is true in no other country, except in certain smaller countries which have adopted our system.

Now, as the gentleman from Pennsylvania has told us, the judges of England, the more important ones, receive salaries three or four or five times as great as are paid to the Federal judges in this country. The point I wish most especially to make is that the English system in this respect is more democratic than our own.

The Senate and House of Representatives of the United States are, I understand, the highest paid legislative bodies in the world. In England a member of Parliament serves without pay, and that is because in England they want their legislative governing body to remain in a particular stratum of their society; and service without pay on the part of members in the English Parliament is the most essentially aristocratic feature of the English Government, and it is the one aristocratic feature of the English Government outside of their hereditary monarchy and hereditary nobility.

When they pay such public servants as judges fair compensation for their services, then they are no longer a governing class of people, but public servants. The Government pays for what the people get, and that is the real system of democracy.

So far as I am concerned, I hope that this country will pay to all its public servants adequate compensation. Now, if I may for a moment touch another phase of this argument, insidious and plausible but not valid, let me make this suggestion to the House: The fact that we already pay Federal judges more than we pay certain clerks or rural free-delivery carriers is no argument against the increase of salary. In the smaller places under the Government the Federal Government pays more than the same services are paid for outside of the Government service. But when you come to the higher positions, in almost every instance the people, whether of the States or of the Nation, pay less than private persons pay. So far as I am concerned, I hope that the time is near at hand when, in addition to the honor that the office holds; when, in addition to that ambition that lawyers have to occupy high judicial stations, the Federal Government may compensate its servants somewhat equal to the great corporations of the country. I would like to see the public servants of the country able to cope with the servants of the corporations, and there, in my opinion, rest the true interests of the people.

Mr. PEARRE. Will the gentleman yield?

Mr. GAINES. Certainly.

Mr. PEARRE. Is it not true on the part of corporations that they are reducing the enormous and bloated salaries of their officers?

Mr. GAINES. And the gentleman from Maryland [Mr. PEARRE] says to me, "Is it not the tendency of corporations now to reduce the salaries of their officials?" But why does he ask that question? Because the Steel Corporation has reduced the salary of one of its officials from $100,000 a year to $50,000 a year. Mr. Speaker, we are talking about increasing a salary from $7,000 a year to $8,500 a year. If the judges had $100,000 a year, then I would say to reduce it much below $50,000 a year.

Mr. MICHAEL E. DRISCOLL. Is it not more honor to serve the Government than one of those steel corporations?

Mr. GAINES. It would be to me unquestionably, and——

Mr. MICHAEL E. DRISCOLL. Is it not?

Mr. GAINES. Mr. Speaker, I have answered the gentleman's question by saying that in my opinion it is.

Mr. MICHAEL E. DRISCOLL. Does not honor count for anything?

Mr. GAINES. It counts for very much with the gentleman and, I hope he will concede, with me.

Mr. CULLOP. Mr. Speaker, since this Congress qualified, two Members of this House have been appointed to Federal judgeships—Mr. Russell, of Texas, and Mr. SMITH, of Iowa. I desire to call the attention of the gentleman to this provision of the Constitution of the United States:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such time.

Does not that constitutional provision disqualify both of these men from holding the positions to which they have been appointed during this Congress, if this amendment should pass?

Mr. GAINES. Mr. Speaker, I will say in answer to the gentleman that I am not able to say the last word on that question. I have given it some consideration, and I am inclined to think it does not disqualify, but that has nothing to do with this question. Even if I thought it did disqualify, I would still be in favor of giving the increase of salary to the Federal judges that they ought to have, even if we had to reduce the salaries of those particular judges in order to enable them to take their positions, just as we did that of the Secretary of State of the United States.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CULLOP. I would like to ask the gentleman one more question.

Mr. KENDALL. Regular order!

Mr. CULLOP. I ask unanimous consent that the gentleman's time be extended for one minute.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. CULLOP. Mr. Speaker, does not this constitutional amendment clearly and concisely declare that neither of these men would be competent to hold that office if this amendment should pass, because of the increase of the pay of the offices to which they have been appointed?

Mr. GAINES. Mr. Speaker, I have already confessed my inability to say the last word on that question. I have said, however, that it would make no difference to me in my vote on the question before the House what the correct answer was. I said I thought it would be very proper to reduce, if necessary, the salaries of these particular judges referred to, as we did the salary of the Secretary of State.

Mr. TAWNEY. Mr. Speaker, if the number of circuit judges in the United States approximated the number of employees in the Government in the city of Washington, the gentleman from Maryland [Mr. PEARRE], who spoke a moment ago against this amendment, would have delivered an entirely different speech. There are but 29 circuit judges; there are 30,000 Government employees.

Mr. PEARRE. Will the gentleman yield for a question?

Mr. TAWNEY. I decline to yield. There are but 29 circuit judges in the United States, and the question of their compensation ought not to be determined by such appeals as have been made here to the prejudice of the House on account of the claims and demands that have been made by Government employees for increases of salary, and the fact that those increases have not in every instance been allowed. The office of a circuit judge of the United States is an honorable office, but the man who has no other means of support than the salary of the position can not live very long on the honor of the position; he can not educate his children on honor; he can not maintain himself or his family upon honor. That is not the rule that should govern the Congress of the United States in fixing reasonable compensation for public service.

The rule that should govern in determining what compensation should be allowed in consideration of the services rendered should take into consideration the character and the importance of the service rendered to the Government and to the people of the United States. That is the rule by which compensation should be measured. It is true that circuit judges have their traveling expenses paid when they hold court away from their homes within their own circuits; but every Member of this House knows that there is no man occupying a position of circuit judge or of district judge, who is dependent wholly upon his salary for his living, who can live in keeping with the dignity of the office which he holds and at the same time educate his children as he desires them to be educated, and as they ought to be edu-

cated, on $7,000 a year, even when his traveling expenses are paid.

Every man on the floor of this House who has children feels it is his duty to educate them, and he knows very well that at least one-fourth of the present salary of the United States judges is required annually to educate a single boy or girl in any of the colleges of the United States. Deduct from the salary of a Federal judge the amount necessary to educate two children, and what has he left to live on? Without an income independent of his salary he would have to resign. Every man on the floor of this House knows that a circuit court judge of the United States, living as his associates expect him to live, must necessarily and he does expend more than he receives from the Government. But, Mr. Speaker, there is another phase of this question. We are gradually drifting into a condition in this country where the public look upon a judicial officer as being next to incompetent for the position if he in any way mixes up or becomes identified with any industry or business, especially corporate business. He can not do it. The position of circuit judge or any Federal judge is to-day precluded by reason of public sentiment from participation in almost any industrial enterprise. The moment any one of them is known to be in any way connected with the business of any corporation, that moment their judgments are looked upon with suspicion and their usefulness upon the bench is impaired. If it were not for this absolutely false standard of judicial integrity, judges who are fortunate enough to have anything to invest might piece out their salary sufficient to make a decent living, a living in keeping with the dignity of the position they hold. I say, Mr. Speaker, that when we consider this question upon the basis of the services rendered, the position these men occupy and must occupy among their associates, $8,500 is not too much for the Government of the United States to pay for services of that kind, and I want to say that the Government of the United States is paying a great deal more in a great many instances for service where the service is not comparable in importance to the services rendered by judges of the United States courts. I sincerely hope, therefore, that this amendment will prevail and will be adopted. [Applause.]

Mr. EDWARDS of Georgia and Mr. RUCKER of Missouri rose.

Mr. RUCKER of Missouri. Mr. Speaker, I would like to say a word in opposition to the amendment——

The SPEAKER pro tempore. The gentleman from Georgia [Mr. EDWARDS] spoke to the Chair some time ago, and will now be recognized in opposition to the amendment.

Mr. EDWARDS of Georgia. Mr. Speaker, the main reason that has been urged here to-day in the debate upon this question to increase these salaries is that the cost of living is so very high. I think that within the next few months, perhaps, this reason might not exist, because I believe that when the Democrats get through revising the tariff downward the cost of living will not be so high. [Applause on the Democratic side.] Mr. Speaker, there are very few men in this body, and very few lawyers in the country, who are eligible to appointment on the Federal benches, who would not be ready and willing to-day or to-morrow, or at any time, to accept those positions at the present salaries and glad to get the place. We have heard from the great cities of New York, Chicago, and Pittsburg; but, Mr. Speaker, they do not make up all the country. There are other parts of the country to be heard from. The cities of New York, Chicago, and Pittsburg, and the other great cities of the country do not pay all of the taxes of the country. There are others who contribute to the taxes of this Government, and they have a voice in this matter. We have good men on the bench at present, at the present salary. At the age of 70 they are entitled to retire on full pay. They get their expenses as they travel over the country in the discharge of their duties. We hear of very few of them dying and none resigning from the bench at the present salaries. Before we begin to raise the high salaries of our officials we had better drop further down among the employees, who can hardly live upon the meager salaries they draw in this time of high prices. I, as much as any man in this House, want the country to have a safe and strong bench. I would like to see a strong district bench, a strong circuit bench, and a strong Supreme Court bench, but I do not believe, Mr. Speaker, that high salaries necessarily mean that we will get any better men appointed; and I, for one, am opposed to this proposed increase of the salary. [Applause.]

Mr. HOBSON. Mr. Speaker, I am in favor of this proposition, because, in my judgment, it is a sound business proposition in the interest of the best welfare of the Nation. We must command the Nation's best talent for the Federal judiciary. That judiciary is called on at this juncture to carry the principles upon which our institutions were founded into and through a new era precipitated by science, where they must be applied to new and changing conditions due to fundamental changes in the physical conditions, especially of transportation, affecting the relations of States to each other and to the Nation, and of individuals to the State and to the Nation. I do not believe that anyone will contest the proposition that when we are sure to have before the Federal judiciary the strongest talent of the Nation arrayed in ex parte debate and contention that there should be on the bench the strongest talent that the Nation can command to apply the principles of our institutions and the spirit of our laws.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield?

Mr. HOBSON. In a few minutes.

The second proposition is, How can we best command the highest talent of the Nation? I will submit this broad proposition, without discussing the question of the cost of living or the abstract level of the compensation to-day. I submit this broad proposition that can not be contested, that with the development of our civilization it has proved necessary in every department of human activity to progressively increase the compensation of men fulfilling any particular duty or function. This is seen in every department of business. It is seen in every department of the Government. We have applied it to the Supreme Court; we have applied it to members of the Cabinet; we have applied it to the Speaker and Vice President; we have applied it to Members of Congress. The proposition before us is to apply it to the Federal judiciary. It is a sound business proposition. Occasions for changes in salaries of Federal officials do not come very often.

Mr. HAMMOND. Will the gentleman yield?

Mr. HOBSON. In a moment. First, I will have to yield to the gentleman from New York [Mr. MICHAEL E. DRISCOLL].

Mr. HAMMOND. I wish to ask a question on this very line.

Mr. HOBSON. I will be very glad to yield to both gentlemen in a moment. I want to carry this logic to its conclusion, and then I will hear you.

The principle on which we can command the best talent is the principle that requires from time to time that the compensation should be increased. Such a bill as this will probably not come up again in a quarter of a century. The proposition to increase by $1,500 the salary is a comparatively small and reasonable increase. It does not compare in percentage to the increase that has already been applied to Members of Congress and other Federal officials mentioned. The effect of this legislation will be felt not so much after a man has entered the Federal judiciary, because surely he will give the best that he has to his country when he has finally entered its exclusive service, irrespective of compensation, but in the long run it will be felt when men come to make the choice as to whether they will accept an appointment which places a limit upon their earning power for all future time. Under those conditions, particularly if a man has a large family, he must give careful consideration to the question of compensation. If the principle of increase has not been followed, as in other callings, the country would be liable to lose the best men, the best talent, seasoned by experience, at the height of their earning power in private life. When such critical junctures arise, we ought to have the compensation of the judiciary sufficient to give an adequate inducement and to insure to the country the very highest talent in the Nation.

Now I will yield to the gentleman from New York [Mr. MICHAEL E. DRISCOLL].

Mr. MICHAEL E. DRISCOLL. Is it not true that in the gentleman's State of Alabama the best judicial talent is secured for the highest place in that State?

Mr. HOBSON. I will say to the gentleman that I believe to-day already in the city of Birmingham the Federal judiciary can not command the highest talent, and that, taking the Nation at large, full and by, the Federal judiciary in its compensation does not and can not to-day command the very highest legal talent of the Nation, and it is becoming more and more out of proportion just as our industrial life and our civilization advances.

Mr. MICHAEL E. DRISCOLL. But you do secure very good talent for the highest place?

Mr. HOBSON. Of course we do. If the gentleman's own salary were put back to $5,000, probably he would be here just the same.

Mr. MICHAEL E. DRISCOLL. Certainly I would, just the same as at $7,500.

Mr. HOBSON. Does the gentleman say that $7,500 is not correct and proper, and that in the long run, throughout the years, we would not need that salary to command the best talent for the House of Representatives just as for the judiciary?

I now yield to the gentleman from Minnesota [Mr. HAMMOND].

Mr. HAMMOND. When the gentleman is speaking of the number of increases that have been recently made, I desire to call his attention to the fact that Congress has passed, if I am not mistaken, upon one phase of this question. It has already created a Court of Commerce, to be made up of judges of the circuit court, and fixed their salaries, I believe, at $8,500.

Mr. HOBSON. The gentleman is entirely correct, and this House has very recently passed upon $8,500 as a fitting compensation for a judge of the rank of a Federal circuit judge.

Mr. MANN. And we have provided $9,000 for that new court, I will say to the gentleman from Alabama.

Mr. BURNETT. I will ask my colleague if it is not a fact that just last year one of the ablest lawyers of our State and a member of a firm of lawyers in Birmingham who get perhaps, the largest fees of any lawyers in the State, was appointed and accepted the position of district judge.

Mr. HOBSON. I think the gentleman's statement is correct.

Mr. HARDY. Mr. Speaker, I had hoped that possibly on this question we would be united in our vote on this side, but I see that hope is gone. I think there is a tendency to-day to build up a Federal official aristocracy. It seems strange to me that Members of the House seemingly recognize some kind of right by which Federal officials performing the same class of duties should receive higher salaries than State officials. The supreme court judges of my State, as I remember, receive a salary each of $4,000 a year. They have the same class of children to educate as the children of the Federal judiciary that were so eloquently referred to by the gentleman from Minnesota [Mr. TAWNEY] as being a reason why he favored this increase. He would increase the salaries of these Federal judges because, forsooth, they must educate their children along a scale of costliness suitable and in keeping with their dignity and station. The district judges in my State hold their positions for $3,000 a year, and must be elected every four years. The reason why the State salaries are held down is simple and plain. It is because the State legislator hears from the people and knows what his people want, and they hesitate or refuse to lay heavier and heavier burdens on the people, who must pay by direct taxation all the salaries of their servants; but here we are disposed to cut loose from the wishes and wants of our people and their comparative estimate of the value and worth of the services rendered, and to listen to the demand of every official who asks or urges that he be raised higher and paid more for his services in this official aristocracy. The taxes we pay for these larger salaries of Federal officialdom are not wrung from the people by direct taxation, but come indirectly; and because the people do not feel the weight of the tax or feel the fingers of the taxgatherer as they go down into our pockets we are assenting to higher salaries from time to time whenever the demand is made upon us with sufficient urgency. We raise the salaries of the judiciary to-day; we raise the administrative officers to-morrow; we raise the salaries of the military arm of the Government next day. The end will never come until we have an official aristocracy with life tenure in office. Life tenure is a thing that in itself ought to be a stench in the nostrils of every man who believes in the perpetuity of free government and the rule of the people. [Loud applause.]

Mr. CLAYTON. May I suggest to the gentleman that only four or five years ago, or about that time, we increased the salaries of the district judges from $5,000 to $6,000, and of the circuit judges from $6,000 to $7,000?

Mr. HARDY. And next year they will want $10,000. I thank the gentleman for the interruption. In my opinion, Mr. Speaker, the judges who are elected by the people stand in every way as high as the judges appointed by pull or favor or good fortune.

The fact is, Mr. Speaker, comparing the judiciary of the United States with the judiciary of the States, the State judiciary is just as able, yet the Federal judiciary receive twice what the judiciary of the States are receiving on the average. I make the statement here that the supreme judges of my State would be shining lights in the circuit courts of the United States, and would grace the Supreme Court of the United States, yet they get only half the pay, and they have their children to educate, too. [Applause.] And not only that, but, taking the entire bar of the State of Texas and of any Southern State, and I think of almost any of the States, there is not an able man among them who would not be glad to receive an appointment on the Federal circuit bench with the salary as it is to-day.

The average earning of able members of the bar is not as much as that salary; and yet because the money does not come from direct taxation, we are here listening to every request for an increase of salary, and there will be no end to these appeals for increases of salary until we have an official aristocracy in this country. [Loud applause.]

Mr. Speaker, when I speak of average earnings of able lawyers I do not mean those few attorneys who may represent the great and powerful corporations or special interests. It may be that great corporations pay more than the highest judicial salaries paid in this country. They want men of great talent and of great influence, and it has been suggested to me that possibly lawyers who have long and ably served these corporations at high salaries may be loath to take office under the Government at a very much lower pay; but if any man may fear that we may not be able to secure some of these great lawyers for our judges I want to say to him I shall not regret it. I do not criticize or censure any lawyer for representing great corporations, but candidly I prefer for the bench men whose lines have not fallen among the corporation barons, magnates, and potentates, but whose life and practice has been among the common people, whose scale of living and earnings have been on the common plane; and I know that among these lawyers of the common people—lawyers of the small towns, yes, and of the large towns, but of independent practice—you will find just as keen intellects, as able judges and as true, as among the higher salaried representatives of great interests and corporations. For one I am strongly opposed to raising the salaries of these lifetime judges, whose duties are not nearly so important as those of our State supreme judges, above $7,000 per annum for all the years they serve and for all the years they may live after they may have retired from the bench.

Mr. MANN. Mr. Speaker, I have never been enamored with high salaries for any class of Government officials, and I am not in favor of paying high salaries to the judges. A few years ago we increased the salaries of the district judges from $5,000 to $6,000, and of the circuit judges from $6,000 to $7,000. We increased the salaries of the Supreme Court judges, and also the salaries of the Cabinet officers. If we now increase the salaries of the circuit judges from $7,000 to $8,500 it will follow as a matter of course that we will increase the salaries of the district judges from $6,000 to $7,500; and there will be a way of doing that in conference or otherwise, because if this bill becomes a law the whole bill will go in conference; and I take it the conferees on the part of the House would accept it as a direction of the House if we increased the salaries of the circuit judges $1,500—to $8,500—that they increase the salaries of the district judges to $7,500 a year. It will follow also if we adopt this motion that we will increase the salaries of the Supreme Court judges; and if we increase the salaries of the Supreme Court judges it will necessarily follow (following, I think, the history of the country) that we increase the salaries of the Cabinet officers to the same extent.

The increase we made seven years ago was $1,000 a year. We all know as a matter of fact that $1,000 a year increase is not commensurate with the increased expense which the judges are put to in this day from what they were when the original $6,000 was fixed for the salary of a circuit court judge and $5,000 for a district judge.

There is no disagreement in this body that the judges ought to be paid a fair salary, such a salary as will permit them to live in comfort and educate their children. Now, what is the situation throughout the country? It is true that in many portions of the country the salaries now paid are quite sufficient to obtain good talent, sufficiently good talent, and salaries in many parts of the country now paid are fair salaries as compared with salaries paid by the States to the State judges. That is a fair comparison because we have no right to suppose that on the average our judges will be of a higher caliber than the judges of the State supreme courts.

But in some cities of the country it is absolutely impossible to say that the salary now paid to the district and circuit court judges is a fair salary in those cities. Six and seven thousand dollars is not a commensurate salary to pay in the city of New York. It is not sufficient in the city of Chicago; it is not sufficient in Philadelphia or Boston or various other cities of the country; and yet, I think that no one here would desire to make a distinction between a Federal judge in Kansas and a Federal judge in New York City as to salary. We go upon the principle that we pay these judges even salaries throughout the country; and that being the case, is it not fair that we pay to the judges in the large cities a fair salary? It is true that the judges are appointed for life, that they have no campaign expenses; it is true that they now receive salaries more than equal to the salaries of a Member of Congress; and yet the salary is not, in my judgment, a proper salary for the country to pay in the large cities.

I say this with some hesitation, because two of the judges in my city who have received as State court judges $10,000 a year salary have recently resigned, to be appointed, one on the district bench at $6,000, and one on the Court of Commerce, or circuit court, at $7,000. [Applause.] I presume that any of the

rest of them would have accepted the same appointment if they were able to secure it. And yet, that is not a fair test as to whether we pay a fair salary. It is not a test as to what salaries we pay ourselves. It is no argument in favor of increasing the salary of these men that we have increased our own. The question is, Do we pay them the reasonable salary which we ought to? We increased the salary $1,000, and in my judgment we can afford to increase it another $1,500, so that the increase altogether amounts to $2,500. That probably will settle this question for a long time to come.

I hope that the House will feel that it can at this time give this reasonable salary to these judges upon whom, after all, the integrity of our country under our form of government depends more than upon any other set of men or officials in the country. [Applause.]

Mr. MOON of Pennsylvania. Mr. Speaker, I was about to move that all debate on this section and amendments thereto close in five minutes and that I be allowed the time. I see the gentleman from Kentucky on his feet. Does he wish to speak?

Mr. HELM. I do.

Mr. MOON of Pennsylvania. Then, Mr. Speaker, I ask that all debate on this amendment be closed in 10 minutes, and the gentleman from Kentucky have five minutes and I have the remaining five.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent that all debate on this paragraph and amendments thereto be closed in 10 minutes, of which the gentleman from Kentucky shall have five minutes and the gentleman from Pennsylvania five minutes. Is there objection?

There was no objection.

Mr. HELM. Mr. Speaker, this debate has taken a very wide range. It seems to be a kind of free-for-all, and I have concluded to take a chance.

A great deal has been said here on the floor that these salaries should be raised on account of the high cost of living. The Democratic Party is not responsible for the high cost of living. May I be permitted to remind this House that the men who are called upon to pay these continuous raises of salaries that this Congress is imposing upon the taxpayers of the country are also suffering from the increased cost of living, and that they have children to be educated as well as the officeholder? [Applause.]

I have recently noticed in the papers, Mr. Speaker, that the salary of the President of the great Steel Trust has been reduced from $100,000 per annum to $50,000 per annum. If this stupendous business corporation sees proper to reduce the salaries of its officers, it does occur to me that the prudent thing for Congress to do is not to increase the salaries of officers, but, if possible, to reduce them. Within less than one week this Congress has voted over $45,000,000 increase in pensions to the soldiers.

I dare say that there has not a day passed since Congress convened that there has not been some effort made somewhere along the line to increase the salaries of men who draw their living at the public crib. It is an endless-chain affair, and is does seem that the time has arrived when the brake should be set, when a halt should be called, and in the name of that vast horde, that great army of taxpayers, who are being bound down under the burdens of taxation—municipal, State, and Federal—I appeal to this House to vote against this amendment.

Mr. HOBSON. Will the gentleman yield for a question?

Mr. HELM. Certainly.

Mr. HOBSON. Did the gentleman vote for or against the $45,000,000 pension bill?

Mr. HELM. I voted against it.

Mr. HOBSON. I am glad to hear that. So did I.

Mr. HELM. I hear a voice saying that it did not affect my constituents. It did affect my constituents and, coming from a close district, it may perhaps affect my return to Congress, but I want to go on record here and now as not being one of those Members who endeavors here on this floor to strengthen his political fences by voting increases in salaries to any class of Federal employees. [Applause.]

Mr. MOON of Pennsylvania. Mr. Speaker, in concluding the debate upon this section and the amendments, I have very little remaining for me to say. The entire subject has been almost exhaustively discussed on both sides of this Chamber, but I want to recall the Members of this House to the concrete thing in which we are now engaged. This amendment is proposed to section 116, and provides for an increase of $1,500 a year to the salaries of the circuit judges of the country. The circuit court judges of the country to-day are 29 in number, and, therefore, this amendment will carry with it an increase of $43,500 as an additional tax upon this country. I desire also to call the attention of the House to the fact that by the act of 1891 the circuit judges of this country constitute practically nine supreme courts of the country.

The jurisdiction of those courts for final determination is very broad. It may be wise for Members to keep in mind that that act makes the decisions of these nine circuit courts of appeal absolute in all except a very few classes of cases, such as where the Constitution of the United States is involved, or the jurisdiction of the court is in question, or in prize cases. Therefore, this great series of courts, these nine circuit courts, officered to-day by 29 men, with these great responsibilities, will be given an increase of salary of $1,500 each.

Mr. Speaker, permit me to say to the House, and it seems to me it ought to have a great influence in deciding this question, that this amendment is an amendment to the pending bill for the codification of the laws relating to the judiciary. If this bill becomes a law the saving in the economic and systematic administration of justice provided by this bill will exceed $300,000 at least. The elimination of costly and useless machinery, the perfection of the system of the administration of justice will, by a moderate estimate, save a much greater sum than the amount required to increase the salaries of all of the judges of the United States courts as provided by the bill just reported by the Judiciary Committee.

Permit me to say one other word. It is of importance that we keep in consideration, I think, the historic relations of the compensation of these men to the other departments of the Government. It has been suggested that at one time Chief Justice Marshall served for $4,000 a year. That is true, and equally true that in those days Members of Congress got $8 a day for actual service rendered, so that a Member at that time would probably get not over $1,500 a year for his services as a Member of Congress.

Permit me to say also that never until the time of the increase of the salary of the Members of the House, never in the history of the country was there a time when the circuit court judge did not get a larger salary than a Congressman. That was the principle adopted by the framers of the Constitution; that was the principle that actuated all the men in the history of the country in selecting men for these offices, that they should receive a higher compensation than was paid to the Congress of the United States, because their position required them to devote their entire time to their judicial duties and precluded them from other lucrative occupation. Now, in every other department—executive, administrative, and legislative—increases from time to time have been made greater in proportion than the increases that have been made in judicial salaries, and it does seem to me, therefore, Mr. Speaker, this increase should be made in view of the fact that this will not become a law if adopted here unless the whole bill becomes a law, and when I state to you that the saving in this bill will infinitely more than compensate for all the increases not only in circuit court judges, but all the increases contemplated in any bill pending before Congress. I may state that if the Supreme Court Justices' salaries be increased to the extent of the amount proposed in the bill that has been reported by the Judiciary Committee; that if the circuit court judges and the district court judges, the Court of Claims, the Court of Commerce, the Customs Court of Appeals, the courts of the District of Columbia, the supreme court of the District of Columbia, are all increased proportionately, the total increase will be $260,500, and an accurate calculation shows that more than that amount of money will be saved by the enactment of this general law in the elimination of costly and useless judicial machinery now employed. The bar associations of at least 25 States have, with practical unanimity, recommended this increase, and I hope, Mr. Speaker, that this very moderate increase may be sustained by a vote of the House. [Applause.]

The SPEAKER pro tempore. The question is upon the amendment of the gentleman from Illinois to the amendment of the gentleman from New York.

Mr. MANN. And on that, Mr. Speaker, I demand the yeas and nays.

Mr. EDWARDS of Georgia. Mr. Speaker, may we have the amendments again reported?

The SPEAKER pro tempore. Without objection, the original amendment offered by the gentleman from New York and the amendment offered to it by the gentleman from Illinois will again be reported.

There was no objection.

The amendments were again reported.

The SPEAKER pro tempore. The question is upon the amendment offered by the gentleman from Illinois, and upon that the gentleman from Illinois demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 130, nays 157, answered "present" 9, not voting 89, as follows:

YEAS—130.

Adair	Durey	Hughes, W. Va.	Payne
Alexander, N. Y.	Dwight	Humphrey, Wash.	Peters
Allen	Ellerbe	Keliher	Plumley
Austin	Ellis	Knowland	Pratt
Barchfeld	Englebright	Lafean	Pray
Barclay	Fairchild	Lamb	Pujo
Bartlett, Nev.	Fitzgerald	Langley	Roberts
Bates	Foss	Lawrence	Rothermel
Bennet, N. Y.	Foster, Vt.	Legare	Rucker, Colo.
Bingham	Fuller	Livingston	Scott
Borland	Gaines	Longworth	Sheffield
Boutell	Gallagher	Lowden	Simmons
Bowers	Gardner, Mass.	McKinlay, Cal.	Steenerson
Burke, Pa.	Goldfogle	McKinley, Ill.	Sterling
Byrd	Goulden	McLachlan, Cal.	Stevens, Minn.
Calder	Graham, Pa.	McLaughlin, Mich.	Sulloway
Calderhead	Grant	McMorran	Sulzer
Cocks, N. Y.	Greene	Malby	Tawney
Conry	Guernsey	Mann	Taylor, Ala.
Cooper, Pa.	Hamer	Martin, Colo.	Taylor, Colo.
Craig	Hamilton	Massey	Taylor, Ohio
Creager	Hanna	Miller, Kans.	Tilson
Currier	Havens	Miller, Minn.	Townsend
Dalzell	Hawley	Moon, Pa.	Washburn
Davidson	Hayes	Morehead	Weeks
Denby	Heald	Morse	Wheeler
Dent	Higgins	Murphy	Wilson, Ill.
Diekema	Hobson	Needham	Wood, N. J.
Dodds	Howard	Nye	Woodyard
Douglas	Howell, N. J.	Olcott	Young, Mich.
Draper	Howell, Utah	Olmsted	Young, N. Y.
Driscoll, D. A.	Hubbard, Iowa	Parker	
Dupre	Hughes, Ga.	Parsons	

NAYS—157.

Aiken	Dickson, Miss.	Hull, Iowa	O'Connell
Alexander, Mo.	Dies	Hull, Tenn.	Oldfield
Ames	Dixon, Ind.	Humphreys, Miss.	Padgett
Anderson	Driscoll, M. E.	Jamieson	Page
Ansberry	Edwards, Ga.	Johnson, Ky.	Palmer, A. M.
Anthony	Esch	Jones	Pearre
Ashbrook	Estopinal	Joyce	Pickett
Barnard	Ferris	Kendall	Pou
Barnhart	Finley	Kinkaid, Nebr.	Rainey
Beall, Tex.	Fish	Kinkead, N. J.	Randell, Tex.
Boehne	Floyd, Ark.	Kitchin	Ransdell, La.
Booher	Focht	Kopp	Rauch
Burgess	Foster, Ill.	Kronmiller	Richardson
Burleson	Garner, Tex.	Küstermann	Robinson
Burnett	Garrett	Latta	Roddenbery
Byrns	Gillett	Lee	Rucker, Mo.
Campbell	Glass	Lenroot	Shackleford
Candler	Godwin	Lever	Sheppard
Cantrill	Good	Lindbergh	Sherwood
Carlin	Graff	Lively	Sims
Carter	Graham, Ill.	Lloyd	Sisson
Cary	Gregg	Loud	Smith, Tex.
Cassidy	Gronna	McDermott	Sperry
Chapman	Hamlin	McHenry	Stafford
Clark, Mo.	Hammond	McKinney	Stanley
Clayton	Hardy	Macon	Stephens, Tex.
Cline	Haugen	Madden	Thistlewood
Collier	Hay	Madison	Thomas, Ky.
Cooper, Wis.	Heflin	Maguire, Nebr.	Thomas, N. C.
Covington	Helm	Martin, S. Dak.	Tou Velle
Cowles	Henry, Conn.	Mays	Turnbull
Cox, Ind.	Henry, Tex.	Mitchell	Volstead
Cox, Ohio	Hill	Moon, Tenn.	Watkins
Crow	Hinshaw	Moore, Tex.	Webb
Crumpacker	Hitchcock	Morgan, Okla.	Weisse
Cullop	Hollingsworth	Morrison	Wilson, Pa.
Davis	Houston	Moss	Woods, Iowa
Dawson	Howland	Nelson	
Denver	Hubbard, W. Va.	Nicholls	
Dickinson	Hughes, N. J.	Norris	

ANSWERED "PRESENT"—9.

Adamson	Flood, Va.	Korbly	Slayden
Bartlett, Ga.	James	Moore, Pa.	Talbott
Bell, Ga.			

NOT VOTING—89.

Andrus	Garner, Pa.	McCall	Sherley
Bartholdt	Gill, Md.	McCreary	Slemp
Bennett, Ky.	Gill, Mo.	McCredie	Small
Bradley	Gillespie	McGuire, Okla.	Smith, Cal.
Brantley	Goebel	Maynard	Smith, Iowa
Broussard	Gordon	Millington	Smith, Mich.
Burke, S. Dak.	Griest	Mondell	Snapp
Burleigh	Hamill	Morgan, Mo.	Southwick
Butler	Hardwick	Moxley	Sparkman
Capron	Harrison	Mudd	Spight
Clark, Fla.	Huff	Murdock	Sturgiss
Cole	Johnson, Ohio	Palmer, H. W.	Swasey
Coudrey	Johnson, S. C.	Patterson	Thomas, Ohio
Cravens	Kahn	Poindexter	Underwood
Edwards, Ky.	Keifer	Prince	Vreeland
Elvins	Kennedy, Iowa	Reeder	Wallace
Fassett	Kennedy, Ohio	Reid	Wanger
Foelker	Knapp	Rhinock	Wickliffe
Fordney	Langham	Riordan	Wiley
Fornes	Law	Rodenberg	Willett
Fowler	Lindsay	Sabath	
Gardner, Mich.	Loudenslager	Saunders	
Gardner, N. J.	Lundin	Sharp	

So the amendment was rejected.

The Clerk announced the following pairs:

For the session:

Mr. ANDRUS with Mr. RIORDAN.

Mr. WANGER with Mr. ADAMSON.

Mr. BUTLER with Mr. BARTLETT of Georgia.

Commencing January 19, ending the session:

Mr. SLEMP with Mr. FLOOD of Virginia.

Until further notice:

Mr. JOHNSON of Ohio with Mr. GILL of Maryland.

Mr. FASSETT with Mr. GILL of Missouri.

Mr. BENNETT of Kentucky with Mr. HAMILL.

Mr. BURLEIGH with Mr. HARDWICK.

Mr. GARDNER of New Jersey with Mr. HARRISON.

Mr. HUFF with Mr. MAYNARD.

Mr. KENNEDY with Mr. PATTERSON.

Mr. LOUDENSLAGER with Mr. SPIGHT.

Mr. MONDELL with Mr. WALLACE.

Mr. RODENBERG with Mr. WILLETT.

Mr. LANGHAM with Mr. RHINOCK.

Mr. MCGUIRE of Oklahoma with Mr. UNDERWOOD.

Mr. MOXLEY with Mr. WICKLIFFE.

Mr. COUDREY with Mr. BELL of Georgia.

Mr. BURKE of South Dakota with Mr. SAUNDERS.

Mr. CAPRON with Mr. REID.

Mr. MCCALL with Mr. JAMES.

Mr. MILLINGTON with Mr. LINDSAY.

Mr. KNAPP with Mr. SHERLEY.

Mr. COLE with Mr. SPARKMAN.

Mr. PRINCE with Mr. GORDON.

Mr. SMITH of Michigan with Mr. CLARK of Florida.

Mr. MCCREARY with Mr. SHARP.

Mr. SOUTHWICK with Mr. TALBOTT.

Mr. BARTHOLDT with Mr. JOHNSON of South Carolina.

Mr. FORDNEY with Mr. BRANTLEY.

Mr. MURDOCK with Mr. GILLESPIE.

From January 25 to January 28:

Mr. WILEY with Mr. SLAYDEN.

From 3 p. m. to-day until Thursday noon:

Mr. LAW with Mr. SABATH.

Ending January 26, noon:

Mr. MOORE of Pennsylvania with Mr. SMALL.

Ending this day:

Mr. ELVINS with Mr. KORBLY.

For balance of day:

Mr. GARDNER of Michigan with Mr. FORNES.

Mr. KAHN with Mr. CRAVENS.

For this day:

Mr. GRIEST with Mr. BROUSSARD.

The result of the vote was announced as above recorded.

Mr. CLAYTON. Mr. Speaker, on the main amendment I demand the yeas and nays.

Mr. MANN. Mr. Speaker, I move to amend the amendment by striking out "ten" and inserting "eight."

Mr. EDWARDS of Georgia. Mr. Speaker, I raise a point of order. I believe it is subject to a point of order.

Mr. MANN. You have got another guess coming.

The SPEAKER pro tempore. The gentleman will state what his point of order is.

Mr. EDWARDS of Georgia. As I understand, the amendment is to the pending amendment.

The SPEAKER pro tempore. The Chair so understands it. The gentleman from New York [Mr. BENNET] heretofore offered an amendment making the salary $10,000. The gentleman from Illinois [Mr. MANN] now offers to amend that by changing the word "ten" to "eight." The question is on that amendment. On that the gentleman from Alabama [Mr. CLAYTON] demands the yeas and nays.

Mr. CLAYTON. No, sir; not on his amendment. I demanded it on the main proposition.

The SPEAKER pro tempore. The question is on the amendment of the gentleman from Illinois [Mr. MANN] to the amendment of the gentleman from New York [Mr. BENNET].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. LANGLEY. The yeas and nays, Mr. Speaker.

Mr. EDWARDS of Georgia. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 125, nays 152, answered "present" 6, not voting 102, as follows:

YEAS—125.

Alexander, N. Y.	Bartlett, Nev.	Boutell	Byrd
Allen	Bates	Bowers	Calder
Austin	Bennet, N. Y.	Bradley	Calderhead
Barchfeld	Bingham	Brantley	Cocks, N. Y.
Barclay	Borland	Burke, Pa.	Conry

Cooper, Pa.	Goldfogle	McDermott	Pray
Cowles	Goulden	McKinlay, Cal.	Pujo
Craig	Graff	McKinley, Ill.	Reeder
Currier	Graham, Pa.	McLachlan, Cal.	Rothermel
Dalzell	Grant	McLaughlin, Mich.	Rucker, Colo.
Denby	Greene	Malby	Simmons
Dent	Guernsey	Mann	Steenerson
Diekema	Hamer	Martin, Colo.	Sterling
Dodds	Hamilton	Martin, S. Dak.	Stevens, Minn.
Douglas	Hanna	Massey	Sulloway
Draper	Hayes	Miller, Kans.	Sulzer
Driscoll, D. A.	Higgins	Miller, Minn.	Tawney
Dupre	Hobson	Mondell	Taylor, Ala.
Durey	Howard	Moon, Pa.	Taylor, Colo.
Dwight	Howell, N. J.	Moore, Pa.	Taylor, Ohio
Ellerbe	Howell, Utah	Morse	Tilson
Ellis	Hubbard, Iowa	Murphy	Townsend
Englebright	Hughes, Ga.	Needham	Washburn
Fairchild	Hughes, W. Va.	Nye	Weeks
Fitzgerald	Humphrey, Wash.	Olcott	Wheeler
Foss	Keliher	Olmsted	Wilson, Ill.
Foster, Vt.	Lafean	Parker	Wood, N. J.
Fuller	Lamb	Parsons	Young, Mich.
Gaines	Langley	Payne	Young, N. Y.
Gallagher	Lawrence	Peters	
Gardner, Mich.	Legare	Plumley	
Gardner, N. J.	Livingston	Pratt	

NAYS—152.

Adair	Dies	Hull, Iowa	Norris
Aiken	Dixon, Ind.	Hull, Tenn.	O'Connell
Alexander, Mo.	Driscoll, M. E.	Humphreys, Miss.	Oldfield
Ames	Edwards, Ga.	Jamieson	Padgett
Anderson	Esch	Johnson, Ky.	Page
Ansberry	Estopinal	Jones	Palmer, A. M.
Anthony	Ferris	Joyce	Pearre
Ashbrook	Finley	Kendall	Pickett
Barnard	Fish	Kinkaid, Nebr.	Rainey
Barnhart	Floyd, Ark.	Kinkead, N. J.	Randell, Tex.
Beall, Tex.	Focht	Kitchin	Ransdell, La.
Boehne	Foster, Ill.	Kopp	Rauch
Booher	Garner, Tex.	Kronmiller	Richardson
Burleson	Garrett	Küstermann	Robinson
Burnett	Gillett	Latta	Roddenbery
Byrns	Glass	Lee	Rucker, Mo.
Campbell	Godwin	Lenroot	Shackleford
Candler	Good	Lever	Sheppard
Cantrill	Graham, Ill.	Lindbergh	Sherwood
Carlin	Gregg	Lively	Sims
Carter	Gronna	Lloyd	Sisson
Cary	Hamlin	Loud	Smith, Tex.
Chapman	Hammond	McHenry	Stafford
Clark, Mo.	Hardy	McKinney	Stanley
Clayton	Haugen	McMorran	Stephens, Tex.
Cline	Hay	Macon	Sturgiss
Collier	Heflin	Madden	Thistlewood
Cooper, Wis.	Helm	Madison	Thomas, Ky.
Covington	Henry, Conn.	Maguire, Nebr.	Thomas, N. C.
Cox, Ind.	Henry, Tex.	Mays	Tou Velle
Cox, Ohio	Hill	Mitchell	Turnbull
Crumpacker	Hinshaw	Moon, Tenn.	Volstead
Cullop	Hitchcock	Moore, Tex.	Vreeland
Davis	Hollingsworth	Morgan, Okla.	Watkins
Dawson	Houston	Morrison	Webb
Denver	Howland	Moss	Weisse
Dickinson	Hubbard, W. Va.	Nelson	Wilson, Pa.
Dickson, Miss.	Hughes, N. J.	Nicholls	Woods, Iowa

ANSWERED "PRESENT"—6.

Adamson	Bell, Ga.	James	Korbly
Bartlett, Ga.	Flood, Va.		

NOT VOTING—102.

Andrus	Gill, Md.	Lowden	Sharp
Bartholdt	Gill, Mo.	Lundin	Sheffield
Bennett, Ky.	Gillespie	McCall	Sherley
Broussard	Goebel	McCreary	Slayden
Burgess	Gordon	McCredie	Slemp
Burke, S. Dak.	Griest	McGuire, Okla.	Small
Burleigh	Hamill	Maynard	Smith, Cal.
Butler	Hardwick	Millington	Smith, Iowa.
Capron	Harrison	Morehead	Smith, Mich.
Cassidy	Havens	Morgan, Mo.	Snapp
Clark, Fla.	Hawley	Moxley	Southwick
Cole	Heald	Mudd	Sparkman
Coudrey	Huff	Murdock	Sperry
Cravens	Johnson, Ohio	Palmer, H. W.	Spight
Creager	Johnson, S. C.	Patterson	Swasey
Crow	Kahn	Poindexter	Talbott
Davidson	Kelfer	Pou	Thomas, Ohio
Edwards, Ky.	Kennedy, Iowa	Prince	Underwood
Elvins	Kennedy, Ohio	Reid	Wallace
Fassett	Knapp	Rhinock	Wanger
Foelker	Knowland	Riordan	Wickliffe
Fordney	Langham	Roberts	Wiley
Fornes	Law	Rodenberg	Willett
Fowler	Lindsay	Sabath	Woodyard
Gardner, Mass.	Longworth	Saunders	
Garner, Pa.	Loudenslager	Scott	

So the amendment was rejected.

The following additional pairs were announced:

Until further notice:

Mr. DAVIDSON with Mr. BURGESS.

Mr. FORDNEY with Mr. FORNES.

Mr. WOODYARD with Mr. HARDWICK.

Mr. LOWDEN with Mr. WALLACE.

Mr. HAWLEY with Mr. HAVENS.

Mr. MOREHEAD with Mr. POU.

Mr. HEALD with Mr. SMALL.

Mr. KNOWLAND with Mr. SPARKMAN.

The result of the vote was then announced as above recorded.

Mr. CLAYTON. Mr. Speaker——

The SPEAKER pro tempore. The gentleman rises for what purpose?

Mr. CLAYTON. To move the previous question on the amendment offered by the gentleman from New York.

The SPEAKER pro tempore. The question recurs on the amendment offered by the gentleman from New York, and upon that the gentleman from Alabama moves the previous question.

The question was taken, and the previous question was ordered.

Mr. CLAYTON and Mr. NORRIS. I demand the yeas and nays.

The yeas and nays were ordered.

The Clerk proceeded to call the roll.

Mr. CLAYTON (interrupting the call). Mr. Speaker, I want to inquire as to the parliamentary status.

The SPEAKER pro tempore. The roll call is upon the amendment offered by the gentleman from New York.

Mr. CLAYTON. That is what I understood.

The SPEAKER pro tempore (continuing). Which, without objection, will be read again.

Mr. CLAYTON. There was a misunderstanding here, and that is the reason I asked the question.

The Clerk read as follows:

Page 120, line 18, strike out "seven" and insert "ten," so as to read "$10,000."

The SPEAKER pro tempore. The Clerk will begin the call of the roll again.

The question was taken; and there were—yeas 50, nays 217 answered "present" 7, not voting 112, as follows:

YEAS—50.

Alexander, N. Y.	Denby	Graham, Pa.	Olmsted
Allen	Driscoll, D. A.	Hayes	Parker
Austin	Dupre	Higgins	Parsons
Barchfeld	Dwight	Howard	Peters
Bartlett, Nev.	Ellis	Keliher	Pujo
Bennet, N. Y.	Englebright	Knowland	Stevens, Minn.
Borland	Fairchild	McKinlay, Cal.	Sulzer
Boutell	Foss	McKinley, Ill.	Tawney
Bradley	Gaines	McLachlan, Cal.	Thomas, Ohio
Burke, Pa.	Gallagher	Malby	Tilson
Calderhead	Gardner, Mass.	Massey	Washburn
Conry	Goldfogle	Moon, Pa.	
Dalzell	Goulden	Olcott	

NAYS—217.

Adair	Draper	Hull, Tenn.	Palmer, A. M.
Aiken	Driscoll, M. E.	Humphrey, Wash.	Payne
Alexander, Mo.	Edwards, Ga.	Jamieson	Pearre
Ames	Ellerbe	Johnson, Ky.	Pickett
Anderson	Esch	Jones	Plumley
Ansberry	Estopinal	Joyce	Poindexter
Anthony	Ferris	Kendall	Pratt
Ashbrook	Finley	Kinkaid, Nebr.	Rainey
Barclay	Fish	Kinkead, N. J.	Randell, Tex.
Barnard	Fitzgerald	Kitchin	Ransdell, La.
Barnhart	Floyd, Ark.	Kopp	Rauch
Beall, Tex.	Focht	Kronmiller	Reeder
Boehne	Foster, Ill.	Küstermann	Richardson
Booher	Foster, Vt.	Lafean	Robinson
Bowers	Fuller	Lamb	Roddenbery
Brantley	Gardner, N. J.	Langley	Rucker, Colo.
Burgess	Garner, Tex.	Latta	Rucker, Mo.
Burleson	Gillett	Lawrence	Scott
Burnett	Glass	Lee	Shackleford
Byrd	Godwin	Lenroot	Sheppard
Byrns	Good	Lever	Sherwood
Calder	Gordon	Lindbergh	Simmons
Campbell	Graff	Lively	Sims
Candler	Graham, Ill.	Lloyd	Sisson
Cantrill	Grant	Loud	Smith, Tex.
Carlin	Greene	McDermott	Sparkman
Carter	Gregg	McHenry	Stafford
Cary	Gronna	McKinney	Steenerson
Cassidy	Guernsey	McMorran	Stephens, Tex
Chapman	Hamer	Macon	Sterling
Clark, Mo.	Hamilton	Madden	Sturgiss
Clayton	Hamlin	Madison	Sulloway
Cline	Hammond	Maguire, Nebr.	Swasey
Cocks, N. Y.	Hanna	Mann	Taylor, Ala.
Collier	Hardy	Martin, Colo.	Taylor, Colo.
Cooper, Pa.	Haugen	Martin, S. Dak.	Taylor, Ohio
Cooper, Wis.	Hay	Mays	Thistlewood
Covington	Heald	Miller, Kans.	Thomas, Ky.
Cox, Ind.	Heflin	Mitchell	Thomas, N. C.
Cox, Ohio	Helm	Mondell	Tou Velle
Craig	Henry, Conn.	Moon, Tenn.	Townsend
Crow	Henry, Tex.	Moore, Tex.	Turnbull
Crumpacker	Hill	Morgan, Okla.	Volstead
Cullop	Hinshaw	Morrison	Vreeland
Currier	Hitchcock	Morse	Watkins
Davis	Hollingsworth	Moss	Webb
Dawson	Houston	Murphy	Weisse
Dent	Howell, Utah	Nelson	Wilson, Pa.
Denver	Howland	Nicholls	Wood, N. J.
Dickinson	Hubbard, Iowa	Norris	Woods, Iowa
Dickson, Miss.	Hubbard, W. Va.	Nye	Young, Mich.
Diekema	Hughes, Ga.	O'Connell	Young, N. Y.
Dies	Hughes, N. J.	Oldfield	
Dixon, Ind.	Hughes, W. Va.	Padgett	
Dodds	Hull, Iowa	Page	

ANSWERED "PRESENT"—7.

Adamson	Bell, Ga.	Korbly	Rothermel
Bartlett, Ga.	James	Moore, Pa.	

NOT VOTING—112.

Andrus	Garner, Pa.	Longworth	Sabath
Bartholdt	Garrett	Loudenslager	Saunders
Bates	Gill, Md.	Lowden	Sharp
Bennett, Ky.	Gill, Mo.	Lundin	Sheffield
Bingham	Gillespie	McCall	Sherley
Broussard	Goebel	McCreary	Slayden
Burke, S. Dak.	Griest	McCredie	Slemp
Burleigh	Hamill	McGuire, Okla.	Small
Butler	Hardwick	McLaughlin, Mich.	Smith, Cal.
Capron	Harrison	Maynard	Smith, Iowa
Clark, Fla.	Havens	Miller, Minn.	Smith, Mich.
Cole	Hawley	Millington	Snapp
Coudrey	Hobson	Morehead	Southwick
Cowles	Howell, N. J.	Morgan, Mo.	Sperry
Cravens	Huff	Moxley	Spight
Creager	Humphreys, Miss.	Mudd	Stanley
Davidson	Johnson, Ohio	Murdock	Talbott
Douglas	Johnson, S. C.	Needham	Underwood
Durey	Kahn	Palmer, H. W.	Wallace
Edwards, Ky.	Keifer	Patterson	Wanger
Elvins	Kennedy, Iowa	Pou	Weeks
Fassett	Kennedy, Ohio	Pray	Wheeler
Flood, Va.	Knapp	Prince	Wickliffe
Foelker	Langham	Reid	Wiley
Fordney	Law	Rhinock	Willett
Fornes	Legare	Riordan	Wilson, Ill.
Fowler	Lindsay	Roberts	Woodyard
Gardner, Mich.	Livingston	Rodenberg	

So the amendment was not agreed to.

The following additional pairs were announced:

Until further notice:

Mr. DAVIDSON with Mr. FORNES.

Mr. PRAY with Mr. HARRISON.

Mr. BINGHAM with Mr. HOBSON.

Mr. HOWELL of New Jersey with Mr. LEGARE.

Mr. WEEKS with Mr. LIVINGSTON.

Mr. MOORE of Pennsylvania with Mr. SMALL.

Mr. FORDNEY with Mr. ROTHERMEL.

Mr. DOUGLAS with Mr. STANLEY.

Mr. LONGWORTH with Mr. GARRETT.

Mr. HAWLEY with Mr. HUMPHREYS of Mississippi.

The result of the vote was then announced as above recorded.

The SPEAKER pro tempore. The question now recurs on the amendment offered by the gentleman from New York [Mr. PARSONS] which the Clerk will report.

Mr. PARSONS. Mr. Speaker, before we pass on that I wish to offer another amendment which comes in ahead of it.

The SPEAKER pro tempore. Does the gentleman from New York desire to withdraw the amendment he has offered?

Mr. PARSONS. No; but the one which I am about to offer comes in ahead of it.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent to postpone the consideration of the amendment which he has already offered and proceed to the consideration of the one he now sends to the desk and which the Clerk will report.

Mr. EDWARDS of Georgia. Mr. Speaker, I reserve the right to object. Is it not a fact that the previous question moved on this subject awhile ago cut off all amendments thereto

The SPEAKER pro tempore. The Chair understood the previous question to be ordered only on the amendment pending at that time, which was the amendment offered by the gentleman from New York [Mr. BENNET].

The Clerk read as follows:

Amend section 116 by adding after the word "monthly," line 18, the following:

"And a circuit judge of a circuit, the circuit court of appeals of which is annually held in a city or county with over 1,000,000 inhabitants, shall receive an additional compensation of $5 per day."

Mr. PARSONS. Mr. Speaker, I have offered that amendment because a number of the Members who have voted against the amendments to increase the salaries of the judges of the circuit court have told me that they thought that in the large cities where the cost of living is greater the salaries ought to be increased, whereas in the country at large there ought to be no increases.

This amendment would raise the salaries of the circuit court judges in the second, third, and seventh circuits. According to section 124, which we have adopted, the circuit court of appeals would be required to be held in New York for the second circuit, which has over a million inhabitants; in Philadelphia for the third circuit, which has over a million inhabitants; and in Chicago for the seventh circuit, which has over a million inhabitants. If you will compare the increase which this would give with the salaries now being paid to the State judges in those cities you will find that it is about on a par with the smallest and less than the two larger ones.

In the city of New York the State judges receive a salary of $17,500. This increase would give the circuit court judges in New York an additional compensation of $1,825 per year, a total of $8,825, or about half what the State judges there receive. In Philadelphia the State judges now receive a salary of $8,500 at least; so that these judges would be on a par with the State judges there. In Chicago, I understand, the State judges receive a salary of $10,000; so the circuit court judges in Chicago, if my amendment is adopted, would receive less than the State judges do.

For many years it was the custom to grade the salaries of the Federal district judges according to locality. It was not until 1893 that the district judges were given the same compensation throughout the country. In fact, in New York such discrimination existed that, until the last Congress, when I offered a bill to cut it out, the judge of the eastern district of New York received an additional compensation of $1,800 a year.

Mr. CLAYTON. Will the gentleman yield?

Mr. PARSONS. With pleasure.

Mr. CLAYTON. Is it not a fact that the gentleman from Illinois said in the debate this afternoon that two of the judges that the gentleman from New York has referred to resigned their State judgeship, with a salary of $10,000 per annum, to accept a Federal judgeship—one of $6,000 and the other for $7,000?

Mr. PARSONS. I do not recollect such a statement. What has happened in New York is that a district judge resigned a Federal judgeship to accept a State judgeship.

Mr. CLAYTON. If the gentleman from New York will yield I would like to ask the gentleman from Illinois if it is not a fact.

Mr. PARSONS. I will yield.

Mr. MANN. Judge Carpenter, on the State bench in Chicago, resigned his position with a salary of $10,000 to be appointed a Federal district judge. He was a Republican. Judge Mack, a Democrat, has just been appointed to a circuit court judgeship to go into the Court of Commerce at a salary of $7,000. His salary was $10,000.

Mr. PARSONS. I introduced a bill, which was referred to the Judiciary Committee, which was designed to grade salaries of the district and circuit court judges according to the locality in which they live.

I did this in the belief that the cost of living was greater in the large cities than in the other cities, and I believe that if this amendment that I have offered is adopted it will result in more just salaries to the men who have to live in the large cities, because where the circuit court of appeals is held is where the circuit judges have to live most of the time.

Mr. EDWARDS of Georgia. I wish to ask the gentleman if, upon the same theory, it would not be just as fair to say that the Members of this House who happen to reside in large cities ought to receive larger salaries than the Members who live in smaller towns or in the country.

Mr. PARSONS. Of course that argument can be made; but the fact is that although the salaries of the Members of the House have always been uniform for 70 years, the salaries of district judges were not uniform. They varied according to localities, and it was not until 1903 that a change was made in that respect; and, besides, all the Members of the House have to live in the city of Washington. In New York we also have this peculiar situation in regard to district judges: Every district judge in the second circuit sits in New York City a good deal of the time, I think for at least six weeks, and receives $10 a day extra compensation for so doing, but the resident district judges, who have the expense of keeping themselves and their families there all the year round, receive no extra compensation.

The SPEAKER pro tempore. The Chair will ask the gentleman from New York to suspend for a few minutes. The attention of the Chair has been called to the fact that by unanimous consent, on request of the gentleman from Pennsylvania [Mr. MOON] in charge of the bill, all debate on this section and all amendments thereto was ordered to close in 10 minutes, which time long ago expired.

Mr. PARSONS. Mr. Speaker, I never understood that any such request was made. There is another amendment which I have pending, in which many Members are interested, which I supposed would receive some considerable attention. I am quite sure that the gentleman had not in mind cutting off discussion on that amendment.

The privilege given to all Members to extend their remarks in the RECORD on the subject of increased salaries for judges leads me to add something here in that regard.

The basis on which the Government should fix salaries should not be that somebody can be got for the money. We could get plenty of men in the civil service as post-office clerks and car-

riers, as rural free-delivery carriers, and as customs and other laborers for less, even, than we pay now.

The Government should not base its pay for them on that principle, but on the principle that it should be a model employer, and therefore should pay suitable salaries and wages. It is on that principle that we raised the pay of the post-office clerks and carriers in the first and second class cities in the second session of the Fifty-ninth Congress. On that principle the pay of the laborers in the New York customhouse was raised. On that principle the Post Office Committee sought to get some increase of pay for the laborers in the post office. On that principle we have just increased the pay of the rural free-delivery carriers. That principle applies to the great mass of employees. It is the dominant principle that we apply in determining their salaries, although, of course, enough must be paid in every case to secure the men.

When it comes to selecting men in the nature of experts, such as judges and scientists, a different principle is the dominant one. The Government should pay suitable salaries, but it should also pay enough to get the best men. It should be able to command the very best talent. The ablest man for a certain job may be unwilling to take it unless he is paid by the Government the same compensation that he would receive from private employers. He may take that attitude on principle, because he thinks that the people should learn that if they wish the best service they should pay for it. To pay less than private employers pay is to handicap the people and deprive them of the opportunity of securing the best service.

All the talk that we hear about low salaries being in the interest of the people is only worthy of Col. Buncombe. Low salaries for experts are only against the interests of the people. The real interests of the people are not in the salaries that are paid, but in the work that is accomplished. The people's interests demand, first and foremost, efficiency in work. If money must be paid for experts to secure efficient service, it is the people's loss if the money is not paid. True it is that the people do not realize this. We have in regard to it the same prejudice that used to exist in cities against employing a schoolteacher or expert of any kind from outside the city.

The people who wanted the jobs and considered that the all-important consideration made the public opinion on the question and handicapped their localities in securing the best talent. That theory is gradually passing away. The idea that low salaries for experts are in the interest of the people is on a par with it, and it is to be hoped that it, too, will pass away.

Governmental activities are greatly increasing. We have very little measure of their cost and comparative efficiency. But it requires no figures to show that it can be no saving to the people to have mediocre men in charge. And low salaries are more likely to get mediocre men than the best experts. It is all very well to talk about the honor of serving the public, but honor does not educate a man's children, and a man may very well ask why the people at large, commanding the greatest ability to pay, should offer him less than he is worth to a private undertaking. The more cities, counties, States, and the Federal Government enter into business activities, the more important will it be that suitable salaries be paid, so that the best experts can be obtained.

So busy are we, so intricate are our problems, that we do not often realize the value of a man, the benefit to a locality of a genius who can solve problems. The difference without him is not easily imagined, but that it exists we know. In war it has often been remarked upon. Gen. Lee said that he could have won the battle of Gettysburg if he had had Stonewall Jackson there to take Cemetery Ridge at the close of the first day's fighting. The genius of Jackson, could he have been there, might have changed the course of history. I think it is said in connection with the same campaign that if Gen. Grant had been in command of the Federal troops, and had had Sheridan to attack Lee on the retreat, Lee could have been prevented from recrossing the Potomac and the war would have been ended many months before it was.

The value of individuals to a people is a repeated story in the Old Testament. The great danger that besets popular government is that the people at large will be unmindful of the need for excellence, will not seek it out, will not recognize it when it appears, and will not offer it sufficient inducements. The test of democracy, as has been said by President Hadley, of Yale, is its ability to choose experts. Judges are experts, and the Government should have the means at hand for securing the very best talent, which it can not now secure, at least in the great cities of the East, such as New York, Philadelphia, and Chicago. By that I do not mean to say that the judges there are not capable men. They are. But the field from which to choose is not as large as it should be. Any lawyer knows the tremendous saving to litigants that there is in able judges, who are industrious and dispatch business. Our judicial system, State and Federal, compared to that of England, is ridiculous. With much fewer judges to the population, justice there is dispatched with a promptitude and certainty, both as to civil and criminal cases, that is undreamed of here. While there are many causes contributing to this, I believe it is due more than anything else to our failure to select the most capable and most experienced men for the bench, and that the evil will not be cured until we are able to command such men for judicial office and do secure them.

Mr. AUSTIN. Mr. Speaker, I demand the regular order.

The SPEAKER pro tempore. The regular order is demanded. The time for debate has expired. The question is on the amendment offered by the gentleman from New York.

Mr. MANN. Mr. Speaker, I hope that statement will not go as official that debate on this paragraph and all amendments thereto has been cut off, because that was not the understanding on the floor, I think. There is a very important amendment that has been laid over, that has nothing to do with this question that is still pending.

Mr. AUSTIN. Mr. Speaker, the gentleman having charge of the bill did ask unanimous consent that all debate on the paragraph and amendments thereto should be closed in 10 minutes, and I demand the regular order.

The SPEAKER pro tempore. The Chair will ask the gentleman from Pennsylvania [Mr. MOON] what the fact is in regard to that.

Mr. MOON of Pennsylvania. Mr. Speaker, my recollection is that my request was made in the form in which the Chair has stated it, that all debate upon that section and all amendments thereto should close in 10 minutes. That is my recollection of the form of the request. Of course, I did not have in mind at all at the time the fact that a pending amendment of an entirely different character to this section had not been taken up. While I put it in that form, my own intention was not to exclude consideration of the other pending amendment—not the one now pending, but the other one of which the gentleman from New York has spoken.

Mr. EDWARDS of Georgia. What is that amendment?

Mr. PARSONS. That amendment was to the effect that these circuit judges should be constituent elements of the district court—a totally different subject.

Mr. CLAYTON. Mr. Speaker, a parliamentary inquiry. After the gentleman from Pennsylvania [Mr. MOON] had preferred the request to close debate on the amendment that has not yet been read, the gentleman from New York asked that that matter be laid aside to offer the amendment which he is now discussing. What I wish to know is, if that does not abrogate the original position that the House was in, according to the request made by the gentleman from Pennsylvania.

I would ask if it is not a new matter and if the gentleman from New York is not entirely within his rights in now addressing the House on the amendment which has been read.

The SPEAKER pro tempore. The Chair will state that the gentleman from Pennsylvania [Mr. MOON] has asked unanimous consent that debate should close in 10 minutes on the pending amendment and all amendments thereto. Now, the gentleman from New York [Mr. PARSONS] had an amendment pending. He asked unanimous consent that that might be held over for the present and offered another amendment which he desired to offer, and has offered. The Chair is of opinion that does not abrogate the agreement upon which the House had entered upon the request of the gentleman from Pennsylvania. It is now within the province of the House—— [Cries of "Regular order!"]

The SPEAKER pro tempore. Regular order is demanded, and the question is upon the amendment offered by the gentleman from New York.

Mr. EDWARDS of Georgia. Mr. Speaker, I ask that the amendment may be reported again.

The SPEAKER pro tempore. Without objection, the amendment will be reported again.

There was no objection.

The amendment was again reported.

The question was taken; and upon a division (demanded by Mr. PARSONS) there were—ayes 31, noes 86.

So the amendment was rejected.

The SPEAKER pro tempore. The question now is on the other amendment offered by the same gentleman, which the Clerk will again report.

The amendment was read, as follows:

Amend section 116 by adding at the end thereof, after the word "circuit," in line 19, page 120, the words "and shall have throughout his circuit the powers and jurisdiction of a district judge."

Mr. MANN. I ask unanimous consent, Mr. Speaker, that the gentleman may have five minutes.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that the time of the gentleman may be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. PARKER. Mr. Speaker, may I ask the gentleman from New York to grant me leave to offer an amendment to the amendment before he begins his speech? I would like to offer it now so as to have it in the RECORD.

The SPEAKER pro tempore. Will the gentleman from New York suspend until the gentleman from New Jersey offers an amendment to the amendment, which the Clerk will report?

Mr. PARSONS. Certainly.

The Clerk read as follows:

Amend the amendment of Mr. PARSONS as follows:
"Insert after the word 'and' the following words, 'as well as the circuit justice.' The sentence will then read as follows: 'Each circuit judge shall reside in the circuit and as well as the circuit justice shall have throughout his circuit the powers and jurisdiction of a district judge.'"

Mr. HUBBARD of West Virginia. Mr. Speaker, I desire to offer a substitute to the amendment, which I ask to be read for information.

The SPEAKER pro tempore. Without objection, the substitute amendment which the gentleman proposes to offer to the amendment will be reported for information.

Mr. HUBBARD of West Virginia. I am offering the amendment now as a substitute.

The SPEAKER pro tempore. Is there objection? Does the gentleman from New York yield for that purpose?

Mr. PARSONS. I do.

The SPEAKER pro tempore. The Chair hears no objection, and it will be reported.

The Clerk read as follows:

Substitute for amendment proposed by Mr. PARSONS to section 116:
"District court shall be held by a circuit judge of the circuit or by a district judge duly appointed or designated for the district sitting alone, or by such circuit judge and district judge sitting together. When such judges sit together the judgment or decree shall be rendered in conformity with the circuit judge. Cases may be heard by each of the judges holding a district court sitting apart by direction of the circuit judge, who shall designate the business to be done by each."

Mr. PARSONS. Where does the gentleman's amendment come in?

Mr. HUBBARD of West Virginia. It should come in properly at the end of the chapter relating to district courts. That, however, I believe, has been passed, and I would not be permitted to offer it as an amendment here. I offer it instead of the language of the proposition of the gentleman from New York, the purpose being to provide what the powers of the district and circuit judge will be when you make him a district judge, but the circuit judge shall be superior and shall distribute business between the judges, all of which is not provided for in the amendment proposed by the gentleman from New York.

Mr. PARSONS. Mr. Speaker, when we considered the chapter in regard to district judges, I said that when we reached the chapter in regard to circuit judges I would offer some amendment, and therefore I offered the amendment which has been read and which provides at the end of section 116 that each circuit judge shall sit within and shall have throughout his circuit the powers and jurisdiction of a circuit judge. Unless this amendment is adopted, then the only times when the circuit judges can be used for trial work, or work other than appeal work, will be the times when under the authority of section 18 of the act they are by order required to hold the district court.

Perhaps in some circuits, and perhaps in my own, the second circuit, that provision is sufficient, because so much of the time of the circuit judges is taken up with appeal work. But in the circuits generally there is not enough appeal work to occupy all the time of the circuit judges, and, therefore, if the circuit judges are to be occupied as fully as they should be, then they should be required to do trial work, motion work, and chambers work, just as the district judges are.

In the Attorney General's report we find in Exhibit 11 the number of cases disposed of during the preceding year in each circuit court of appeals. The largest work is done by the second circuit, my own circuit, where the circuit court of appeals last year disposed of 315 appeals; but in the first circuit the circuit court of appeals disposed of only 57 appeals. In other words, four circuit judges in the second circuit did an average of 78 appeals per judge, whereas in the first circuit the circuit judges did an average of only 19 appeals per judge.

Circuit Judge Lowell, of the first circuit, believes that some such amendment as this should be adopted, so that the time of the circuit judges will be fully occupied, whereas the circuit judges of the second circuit believe that they will be fully occupied if the provision contained in section 18 is the only provision in the bill requiring them to do trial or motion work. But if you will examine this table in the Attorney General's report you will find that there are a number of circuits where the circuit judges ought to have a good deal of time at their disposal to do trial work, and, therefore, if we adopt this amendment, in those circuits we will be economizing, and we will be using as much as we can all the judges that we now have.

Mr. HUBBARD of West Virginia. Will the gentleman from New York permit an inquiry?

Mr. PARSONS. I will.

Mr. HUBBARD of West Virginia. The difficulty, in my mind, is how to work it out if you make the circuit judge a district judge, or give him the powers of a district judge. If there be a difference of opinion between those judges as to which should try a given case, how is that to be determined?

Mr. PARSONS. That is determined by section 23.

Mr. HUBBARD of West Virginia. I think the gentleman will find that section relates only to those districts in which there is one district judge, and does not reach the trouble in most of the districts of the country.

Mr. PARSONS. Then we could amend that so as to make it apply throughout all the districts. I think very likely that should be amended, and I have drawn an amendment to that section, in case my amendment is adopted.

As against 315 appeals decided in the second circuit, 218 were decided in the eighth, the next largest amount of business. Then comes the ninth circuit, 131; the sixth circuit, 129; the fifth, 121; the fourth, 97; and the third, 85. So that in most of the circuits not half as many appeals are considered by the circuit court of appeals as were considered by the circuit court of appeals of the second circuit. And I infer from that there must be time in those other circuits at the disposal of the circuit judges which could be made available to litigants. For that reason I think we ought to put in this amendment, so that circuit judges, as they have the time, will be required to do trial work and motion work, and also chambers work.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. PARSONS] has expired.

Mr. MOON of Pennsylvania rose.

The SPEAKER pro tempore. The Chair will state to the gentleman from Pennsylvania that debate is not in order.

Mr. PARKER. Mr. Speaker, I ask unanimous consent that the rule heretofore adopted limiting debate on this section be vacated, so far as this amendment and all amendments thereto are concerned. It is too important a matter to determine without debate.

Mr. MOON of Pennsylvania. I join in that, Mr. Speaker, because it was not my intention in making that request to conclude argument on this question.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. PARKER] asks unanimous consent that the order heretofore made by the House closing debate upon this paragraph and all amendments thereto shall be vacated, so as to permit of debate on the pending amendment and all amendments thereto, or in the nature of substitutes therefor. Is there objection?

There was no objection.

Mr. MOON of Pennsylvania. Mr. Speaker, as the gentleman from New York has already stated, this amendment proposed by him is not a committee amendment, and I am inclined to doubt, and indeed I do seriously doubt, the advisability of adopting it. I want to call the attention of the House to the fact that the committee bill already provides for the employment of circuit judges in district courts. Our bill provides for it in substantially the same manner as a district judge now performs work in the circuit court. During the application of that law, which has been in force since 1869, no difficulty has ever arisen that I have heard of in regard to the elasticity of the system. In section 18 we provide:

Whenever in the judgment of the senior circuit judge of the circuit in which the district lies, or of the circuit justice assigned to such circuit, or of the Chief Justice, the public interest shall require that said judge or Associate Justice or Chief Justice shall designate and appoint any circuit judge of the circuit to hold said district court.

Mr. HUBBARD of West Virginia. Will the gentleman from Pennsylvania permit an inquiry?

Mr. MOON of Pennsylvania. Certainly.

Mr. HUBBARD of West Virginia. Was not the flexibility of which the gentleman speaks due to the fact that the circuit judge formerly need not designate anybody to hold the court in place of some other judge; but the circuit judge, being a judge of the court in which the cases were pending, could go upon the bench without any designation of anyone and hold the court without any appointment from anybody?

Mr. MOON of Pennsylvania. That is undoubtedly true.

Mr. HUBBARD of West Virginia. And does not your bill destroy the possibility of that, and so destroy the flexibility of the system?

Mr. MOON of Pennsylvania. We have provided that whenever the circuit judge is not occupied in the circuit court of appeals he should then sit in the district court.

Mr. HUBBARD of West Virginia. While it was theoretically the work of the circuit judge and might have been done by him, most of the current work of the circuit court was in fact done by the district judge as a judge of the circuit court, but the circuit judge, without a moment's notice, could sit in the circuit court on his own motion, or perhaps at the joint request of counsel of the parties, or of counsel on one side, and proceed with the case without an instant's delay. It seems to me that in the laudable effort of the committee to reach symmetry they have interfered somewhat with the flexibility and convenience of the system which the gentleman has just been complimenting.

Mr. MOON of Pennsylvania. Well, I will say to the gentleman from West Virginia that it is not the purpose of the committee to do this; and the only difference between the gentleman and myself is a question of expediency, because the object sought to be attained by the gentleman from West Virginia is one that must be attained under this new system; otherwise it would not be successful. There is no doubt about that.

Mr. HUBBARD of West Virginia. If the gentleman will allow me, as it is a matter of some importance—and perhaps I need not apologize for trespassing upon the time of the House—as matters have been, the circuit judge, being entitled to sit in every district court within his circuit, in the case of a railroad receivership, or of an application therefor, could take charge practically of the whole case so far as it related to a matter in his circuit. Under this bill as it now stands, without the amendment proposed by the gentleman from New York, you run the risk of the conflict of the views or desires of half a dozen district judges, for this bill commits to the district judge such a case as that. Under the old system the possibility of conflict was avoided, because the circuit judge, entitled to go upon the bench in each district, could take hold of the situation and appoint a receiver in all the districts in his circuit. Without some such amendment as that of the gentleman from New York or this substitute of mine, I think you could not do that under this bill.

Mr. MOON of Pennsylvania. Let me reply to the gentleman, that whole subject has been specifically covered by an amendment; that amendment is 54a, which may not appear in the copy of the bill that the gentleman has. This committee recognized the peculiar legal and judicial situation which the gentleman from West Virginia has pointed out. We knew that the circuit judge, sitting in his district, did accomplish the purpose of appointing a receiver as broad as the circuit. Under the law as it exists now the circuit judge can make a decree territorially no broader than the district within which he then sits.

Mr. HUBBARD of West Virginia. He can sit in every district.

Mr. MOON of Pennsylvania. He does not do that, but what he does do is this: An attorney seeking the appointment of a receiver for a railroad which goes through the entire circuit will get a circuit court judge to sit in a district in that circuit, and if there happens to be five districts in that circuit he will prepare one bill and four ancillary bills, and he will file them in that district all before the circuit court sitting therein at the same time.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. PARKER. Mr. Speaker, I ask unanimous consent that the time of the gentleman be extended until he closes; this is too important a matter to be cut off.

Mr. MOON of Pennsylvania. Five minutes will be sufficient.

The SPEAKER pro tempore. The gentleman from New Jersey asks that the time of the gentleman from Pennsylvania be extended five minutes. Is there objection?

There was no objection.

Mr. MOON of Pennsylvania. Now, Mr. Speaker, to resume the explanation, the circuit judge sitting in the district will, in a proper case, enter a decree appointing a receiver, which decree is by law limited to the territory of the district in which he is sitting, and will also at the same time prepare a decree for the other four districts and will telegraph to the circuit court clerk for all those districts in that circuit to enter that decree.

We provide in this bill by an amendment, of which the gentleman from West Virginia is not aware, perhaps, section 54a, which covers that condition of affairs. We have provided that a district judge may, in the first instance, to preserve the status quo, appoint a receiver as broad as the circuit, but we provide that this appointment shall continue only temporarily, and that the circuit judge exercises a supervisory power either to confirm this appointment or to vacate it and make another appointment—in other words, to exercise substantially the same power in that class of cases as he now exercises.

Mr. HUBBARD of West Virginia. There may be done under that amendment, with respect to a certain class of cases, just what my substitute proposes to permit to be done in cases of every class. As the gentleman says, there is retained in the circuit judge by that amendment that amount of original jurisdiction which by the original bill was denied to him, but which I propose to vest in him by the substitute I propose, not merely in the particular case which I used for an illustration, but in every case in which a receivership may be needed in more than one district of a circuit.

Mr. MOON of Pennsylvania. I presume this covers the entire ground of a receivership which is broader than the district in which the district judge sits.

Mr. PARSONS. Will the gentleman yield?

Mr. MOON of Pennsylvania. Certainly.

Mr. PARSONS. Under section 18, suppose the district judge was not available but a circuit judge was on the spot and some lawyer wanted to get an order, could he get it from the circuit court judge unless there had been prior thereto an order entered in accordance with section 18? Under my amendment a lawyer could go directly to a judge and the judge would have to entertain the matter.

Mr. MOON of Pennsylvania. Yes; I should say they could and I should say, under the ordinary practice now existing, where the district judge discharges the work of the circuit court it is under a continuing order, and in all probability there would exist here a continuing order directed to the circuit court judges in the various circuits of the country.

I think we are all seeking to accomplish the same purpose and looking toward making the system elastic, but this is what I fear, that having put all of the original jurisdiction on the district court and made the district judge responsible for its performance, if we make, by general law, a circuit judge ex officio a constituent element of that court, we impose on the district judge the responsibility for the work and give the circuit judge the power to interfere with his arrangement and permit him to exercise a potential control over these courts in which they do not have any responsibility by law, except when they are specially assigned.

Mr. HUBBARD of West Virginia. Will not the circuit judge have the responsibility if he tries the case?

Mr. MOON of Pennsylvania. Which case?

Mr. HUBBARD of West Virginia. The case the gentleman has in mind when he says that the district judge will be held responsible and yet may be meddled with by the circuit court judge. If the circuit judge tries the case, is not the responsibility on him just as much as if he were a district judge?

Mr. MOON of Pennsylvania. I was not speaking of a particular case which the circuit judge tried; of course, he would be responsible, when he was designated, in accordance with section 18. But I speak about the order of business generally, where the responsibility is on the district judge.

Mr. PARSONS. Under section 18, would it not be possible for a circuit judge, the senior circuit judge, to take an order which would relieve the circuit judges of some motion work, temporary work, so that whenever a lawyer wanted to get an order he would have to find the district judge even if the circuit judge was right there?

Mr. MOON of Pennsylvania. Mr. Speaker, I am afraid I shall have to ask the gentleman to repeat his question, as my attention was engaged in something else for the moment. I beg the gentleman's pardon.

Mr. PARSONS. Mr. Speaker, I asked whether under section 18 the order that could be made might not be an order that would keep the circuit judges out of certain work, such as motion work and chambers work, and then when a lawyer wished to get an order ex parte he could not go to the circuit judge, although he was right there, but would have to wait until the district judge was available.

Mr. MOON of Pennsylvania. Well, section 18 provides that a designation can be easily made and by several persons; first, by the senior circuit judge, then by the circuit court justice, then by the Supreme Court Justice. These judges are all interested in the effective and speedy transaction of the business of the courts in every section of the country, and can make this designation and assignment whenever the exigencies of the case

require it. It seems to me we have the right to assume that these judges will perform their duty and see to it that the dockets in every section of the country are kept up by the utilization of all the judicial force in that circuit.

Mr. PARSONS. It is not simply the question of dockets. It is the question of the other business of the courts also.

Mr. MOON of Pennsylvania. I do not see why their designation to hear motions would not be just as easily effected. In other words, let us take the common practice that has been in operation here now for nearly 50 years——

Mr. HUBBARD of West Virginia. But the trouble is that you are destroying that practice.

Mr. MOON of Pennsylvania. I am talking about the practice that makes the district judge a judge of the circuit court.

Mr. HUBBARD of West Virginia. But you are destroying that now, are you not?

Mr. MOON of Pennsylvania. Yes; because it is no longer necessary to make the district judge a judge of the circuit court, because the district court under this bill has the entire field of the Federal court of original jurisdiction.

Mr. HUBBARD of West Virginia. That is how you are doing away with the convenience that we have at hand.

Mr. MOON of Pennsylvania. I am endeavoring to show the gentleman that when the converse situation existed, when district judges did circuit court work, as they now do, we never have any difficulty in the application of the principles of section 18. I mean to say, that whenever the original work of the circuit court needed to be performed, there was no trouble to get a district judge to do it by a continuing order made by the circuit judge. Neither do I think that there can possibly be any difficulty in getting the work of the district court done by a continuing order of designation of a circuit judge to do it. It seems to me, therefore, that we get into considerable danger. We take away from the district judge all the control of the business of the district courts by making the circuit court judge a district judge, except when a designation is made for that purpose.

Mr. HUBBARD of West Virginia. Will the gentleman permit me to inquire whether under the legislation, as proposed, a circuit judge and a district judge may ever sit together for the hearing or trial of a case?

Mr. MOON of Pennsylvania. Yes; there is no question about that. They may sit together at times in the trial of a case.

[The time of Mr. MOON of Pennsylvania having expired, by unanimous consent, on the request of Mr. PARSONS, it was extended for five minutes.]

Mr. HUBBARD of West Virginia. Under what provision?

Mr. MOON of Pennsylvania. Whenever in the judgment of the senior circuit court judge the public interest shall require the judge to sit there; that is, section 18. We have exactly the same condition existing where a district judge sits in the circuit court of appeals.

Mr. HUBBARD of West Virginia. The section to which the gentleman refers provides for the designation of a circuit judge to hold the district court.

Mr. MOON of Pennsylvania. Yes.

Mr. HUBBARD of West Virginia. May he sit with the district judge?

Mr. MOON of Pennsylvania. I should think so; certainly.

Mr. HUBBARD of West Virginia. Not if he holds the court.

Mr. MOON of Pennsylvania. If the public interest requires that the two judges should sit, unquestionably that designation could be made whenever the public interest shall require it.

Mr. HUBBARD of West Virginia. The section referred to only permits that in case the public interest shall require——

Mr. MOON of Pennsylvania. Yes.

Mr. HUBBARD of West Virginia. Another judge may be designated to hold the court—not that two judges may sit together.

Mr. MOON of Pennsylvania. Oh, I do not think the gentleman would contend that there would be any difficulty about that.

Mr. HUBBARD of West Virginia. There never has been any difficulty about it, because the statute expressly permitted it. There is no longer any such permission under this bill.

Mr. MOON of Pennsylvania. I can not see why, under that clause giving that absolute control to the senior circuit judge, to the circuit justice, and to the Chief Justice to designate a circuit judge to sit in the district court when the public interest requires it, if the public interest requires two men to sit in a case, it does not fully qualify both judges to perform that Federal duty. It is not the custom for two district court judges to sit in a trial of a case; that is, a case of first instance. We are talking about the original work. Now, I repeat that the district court judge is constituted by law, under certain conditions, a member of the circuit court of appeals, but he does not sit in that court except by designation under a rule that is adopted by the circuit judges, and therefore it does seem to me that the provision already existing in this bill makes this system sufficiently elastic, just as elastic as the present system is or has been for the last 50 years. Now, I repeat that that is the only objection I have to this amendment. We really all seek to accomplish just exactly the same object, and it is a question whether we are not doing more harm than good by adopting the proposed amendment.

Mr. MANN. Will the gentleman yield for a question?

Mr. MOON of Pennsylvania. Yes.

Mr. MANN. In the railroad act of last summer we passed a provision in relation to injunctions which provided that application should be made and heard and determined by three judges, of whom at least one should be a Justice of the Supreme Court of the United States or a circuit court judge and the other two may be either circuit or district judges, and so forth. Is there anything in this which would change that provision?

Mr. MOON of Pennsylvania. No; but my recollection is that that related to an injunction to restrain the operation of a State law, and the amendment of the gentleman from Kansas will take all of that——

Mr. MANN. But the amendment of the gentleman from Kansas is not yet law and it is a bare possibility that in the final adjustment that might not go in and this might go in, and that is the reason I asked the question.

Mr. MOON of Pennsylvania. There is no change made in that.

Mr. MANN. Does not this make a change in it itself? That is what I want to know.

Mr. MOON of Pennsylvania. We have provided an amendment, which we shall offer at the proper time, to cover that provision in that bill.

Mr. PARSONS. Will the gentleman yield for another question?

Mr. MOON of Pennsylvania. Yes.

Mr. PARSONS. Is not this the situation: That under section 18 it depends upon the order which is made whether circuit judges are available or not, whereas under my amendment they are available if the lawyer chooses to seek them out? Is not that the difference between the two?

Mr. MOON of Pennsylvania. That is one difference between the two.

Mr. PARSONS. Is not that the difference between the two?

Mr. MOON of Pennsylvania. It is only one of a number of differences between the two. Another is that your amendment would make them constituent members of that court, and the effect might be that while the responsibility rests upon the district judge the circuit judge can take entire charge of the business in the district and thereby interfere materially with the order, arrangement, and dispatch of the business of a court in which the district judge is primarily responsible. It may be that the district court judges of the country may feel their jurisdiction or their dignity had been invaded to some extent.

Mr. HUBBARD of West Virginia. How can that be in the future more than in the past?

Mr. MOON of Pennsylvania. To-day we have to consider the additional jurisdiction imposed by this bill upon the district court. To-day the circuit court's original work is imposed upon the district court and——

Mr. HUBBARD of West Virginia. But each district judge may now exercise——

Mr. MOON of Pennsylvania. Under the act of 1869, and he does not feel the same degree of responsibility and——

Mr. HUBBARD of West Virginia. Does not the committee's provision run the risk of hurting the feelings of the district judge more than does this amendment?

Mr. MOON of Pennsylvania. It may be we are increasing the difficulty, but of course I do not believe that consideration——

Mr. PARSONS. May not that district judge be better pleased with my amendment, which requires the circuit judge to do some of the work which otherwise might all be dumped upon the district judge?

Mr. PARKER. Mr. Speaker, I rise to support the amendment proposed by the gentleman from New York [Mr. PARSONS], although I confess I am somewhat reluctant to begin to speak about so important a matter in a House that is so weary, at the end of a day, and when so few are here.

Mr. MANN. Does the gentleman desire to have a quorum present?

Mr. PARKER. No, sir; I do not desire a quorum. If the matter could go over until next Wednesday, I should prefer it, so far as my speech is concerned. But that is in the hands of the gentleman from Pennsylvania [Mr. MOON].

I desire to support that amendment, because it preserves to the circuit courts of the United States, which are now to be called district courts, the dignity and the elasticity which now belong to them, and which has always belonged to them since the institution of this Government.

At present there are three or four judges in each circuit called circuit judges. They and the Justice of the Supreme Court who is assigned to that circuit—the circuit justice—have power to try cases originally in the circuit court, sitting alone or together. The judge of the district where the case is heard can also sit with them or sit separately.

But on an important case they may, and in a railroad receivership case they must, by law, sit in a court of at least three. All circuit court cases, including all equity suits, and especially cases for an injunction or receiver, and all suits at law of other than certain small limits, are tried in the circuit court. The judges can sit there together. In the great cases under the antitrust law that have just been heard in the Supreme Court of the United States it would have been well that three judges should have sat in the original hearing of the case; that at least three judges should have given dignity and power to the original hearing and decision so as to avoid delay and appeal.

I believe in this amendment also, because it extends that power and practice, so that several judges may sit in the district court itself on the trial of crimes. There was a case lately in which millions of dollars in fines were imposed. It would perhaps have been well, considering the importance of that case, if the circuit court judges of the United States for that whole circuit, with the aid, possibly, of the circuit court justice, should have sat together on that trial and rendered a decision which would have been right in the first place, and which would have been enforced instead of reversed.

The circuit court judges may sit in one court throughout the circuit, and although there are but nine circuits we are now troubled with the fact that those circuits make different decisions and that one circuit court is not bound by decisions of another circuit. But under this bill we will have nine circuit courts, but over 90 separate judges sitting in separate circuit courts, as many as there are districts, in order to try cases. The old system gave to the judges of the upper court the right and the duty to go and bring justice home to the people. The system now proposed, by a bill that was supposed to be merely a revision of existing statutes, takes away from the circuit justice and the circuit judges any such right to sit in the original trial of the cause unless the district court judge is sick. Plaintiffs may choose the district, and choose any district in the United States where he thinks he can find a judge that will feel favorably to his contention about some vast mooted question, and the case will be tried before him alone. The circuit judges can now aid in the disposition of a congestion of cases in any district. They can control and prevent conflicting injunctions and receiverships. All through the circuit, if there be differences of opinion or even of temper between the district court judges, the circuit court judges can take such control by merely sitting in the district. And they are intended to have that control which this bill takes away. Surely it is a mistake to take away the power of the upper courts, of the great courts of these United States, to bring justice home to the people, to take charge of cases as they come before the people, and to see that they shall be tried well in the first instance.

I agree with the gentleman as to abolishing clerks and useless machinery, but I do not believe in creating courts that are simply district courts with two appeals, first to a circuit court of appeals and then to the Supreme Court.

The SPEAKER pro tempore. The time of the gentleman from New Jersey has expired.

Mr. PARKER. Mr. Speaker, I ask unanimous consent for five minutes more.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. PARKER. I desire to make a brief statement as to history. The original Supreme Court was comprised of six judges, and there were three circuits in the 13 States. By the law two Justices of the Supreme Court were ordered to sit with the district judge in each district at least once during the year. This involved a great deal of travel, and it became troublesome. Then it was provided that one justice might sit with the district judge in each district at least once a year in these three circuits. All important business was to be heard in the circuit court. The district court at that time was intended to be in a way an inferior court. It had jurisdiction only of small fines and penalties and of suits involving small amounts of money.

The business of the country was intended to be done, as it had been done in the great courts of England, by the justices of the highest court making their circuits through the realm. We have had to add circuit court judges because the Supreme Court Justices have not had the time to do that work. But the large amount of the great litigation in this country, the equity litigation, the receivership litigation, the great trials at law and in equity are still held or presided over by the circuit judges, and not always by one. They may place as many as they please of the circuit judges of that circuit upon the bench. Gradually the district court judge has been invested with power to sit as a circuit judge in trying circuit court cases, but it was not intended that in giving that power to him we should take away the power of the circuit judges to try cases. It was not intended to divide the original jurisdiction of this country into more than 90 separate districts, so that a single judge only could sit.

It was intended that the circuit courts should be the great courts of the land, and not of a particular district. They are constituted not of one district judge only, but are a court of several judges who sit also on appeals. I pray for a continuance of that system. I favor the amendment, because it preserves the system that we now have, but also because it adds a new element of elasticity, for, by that amendment with my modification, in a case of great moment, the judges of the circuit court, or Justices of the Supreme Court, could sit also in a district court and do the work of that court if it appeared of sufficient importance to them. I believe in that system also because I know it in my own State. We have nine judges in our supreme court in the State of New Jersey. We have county courts, called circuit courts; and courts of quarter sessions, common pleas, oyer and terminer, and probate. The county courts are often held by the county judges only, especially in large counties, but the judges of the supreme court always have the right to sit in any one of these courts, so that it shall be a real court of law to be trusted on an important question.

Within the last five or 10 years, in a criminal case which involved a great deal of public excitement, in my county, the chief justice of the supreme court of the State sitting in circuit in the county called on two of the oldest and best judges of the supreme court to sit with him and to hear the case. It was determined against the clamor of public prejudice and public excitement, but the people recognized that it had been justly decided, because it was the decision of justices of our highest court.

We have that practice now in the United States courts. The higher courts do control; there never has been a time when the courts could not in that way control the original trial of a cause so that it may be a court of justice. I favor this amendment because it preserves that system.

I am not altogether in sympathy with the bill in abolishing the distinction between district courts and circuit courts. We need some courts for small penalties, and for the smaller cases in which it is better to have justice equitably and speedily administered by local judges.

We may have to return to some small court system. We may have to create separate courts for the smaller causes some day; but so long as the great original jurisdiction of the circuit court is exercised in the district between man and man, man and corporation, between the State and the citizen, there must be power without any special order whereby all the circuit judges and the circuit justice of that circuit can go into the district to do justice at once, and in the inception of the cause, and to bring to every man the confidence which comes from the feeling that the case has been rightly tried. I heartily support this amendment as retaining the elasticity of practice and the power of the judges.

[Under leave to extend his remarks, granted January 26, Mr. PARKER submits the following appendix on the history, procedure, and jurisdiction of the United States courts:]

APPENDIX.

THE UNITED STATES COURTS.

ADDRESS OF HON. RICHARD WAYNE PARKER, REPRESENTATIVE IN CONGRESS FROM NEW JERSEY, BEFORE THE NEW JERSEY STATE BAR ASSOCIATION, AT ATLANTIC CITY, N. J., JUNE 18, 1910.

The Federal judicial system is a great subject which has been so exhaustively discussed in its relations to history and the Constitution by the greatest lawyers, historians, and statesmen, that on the few days' notice that I have received for preparation I should not have chosen this topic if an experience of some years on the Committee on the Judiciary did not enable me to say something that I hope may be useful as to the practical working of the courts as organized by statute.

The efficiency of this working will, of course, depend upon three things—first, what the courts have to do, or their jurisdiction; secondly, the way in which they do it—that is to say, their practice and procedure; and thirdly, the machinery which they use for that purpose, including the judges, districts, officers, and the relations of one court to another. The courts will do their work well if they have not too much business, use a proper and convenient practice, and have a sufficient and well organized force, and these three conditions for good are intimately bound up in one another. All three have become of

much more importance with the growth of the Nation, and especially since the Civil War. At the present time the greatness and the variety of the questions which come before the United States courts, the difficulties of framing a practice and procedure which shall secure prompt justice and uniform decisions throughout the many States of this great land, and the number of separate courts, judges, and territorial jurisdictions which must be brought together into one organization, present problems second to none in our constitutional government, and greater perhaps than in any other country in the world.

The business which comes before the United States courts has greatly increased since the Civil War. Our internal-revenue system was then permanently established. The collection of internal revenue by the United States had been several times before tried and abandoned, and now furnishes a large part of the necessary income of our Government. Statutes imposing taxes on tobacco, cigars, and liquors, with penalties for the violation of an infinite number of regulations, make necessary a multitude of criminal prosecutions, which can only be tried before the court itself at the sittings of the district court, because, as it will be noticed hereafter, the United States have no courts for the trial of small causes in each county and for the collection of small penalties, such as prevailed at common law and have been retained in our State jurisprudence, and thus a large part of the business of the district court, both in revenue and in other matters, consists in the trial of indictments for purely statutory offenses. With the growth in the post-office service there has been a like increase in prosecutions under the post-office laws. Our population since 1800 has not increased twenty-fold, while the business of the post office has increased nearly a thousandfold. The whole national-bank system also came in with the Civil War, and that law must be administered by the courts. These courts must interpret and enforce our new legislation as to customs, forests, mines, improvements of rivers and harbors, and irrigation. They must determine the rights arising in and as to our outlying territory. A still larger jurisdiction has lately come to them from the expansion of interstate commerce revenue and postal legislation, in which the judicial control of the United States has been made to cover oleomargarine, pure food, the carriage of liquor, lotteries, fraudulent or indecent use of the mails, combinations in restraint of trade or transportation, and the regulation of such transportation, including telegraphs and telephones. Such regulation covers the manner in which the commerce shall be performed, the instruments that shall be used therein, the liability of employers engaged in such interstate commerce, the routes or connections that may or must be established, the rates that may or may not be charged, and their reasonableness or uniformity; and it is now proposed that the United States may and should assume a jurisdiction over corporations engaged in interstate commerce, authorize their organization and control their issues of bonds and stock, even in the case of State corporations. It will be for the Federal courts to determine and finally adjudge how far the United States has constitutional power over these and many other subjects, and how any such power is to be construed and applied.

Chancellor Magie said to me one day that the legislative crime of the century was the multiplication of crimes. The criminal code of statutory crimes which accompanies this tremendous growth of new legislation has thrown upon the courts a docket of criminal cases that seems to know no end. Their work has been increased by a long list of bankruptcy cases, under a law which has extended that system so as to include not merely merchants but the humblest person who owes more than he can pay. The naturalization of aliens has been lately thrown upon the United States courts, as well as the administration of the affairs of insolvent corporations in bankruptcy. Patent litigation has increased in importance, complication, amount, and especially in the difficulty of decision. New branches of equity jurisdiction have been imposed on the laboring judges by the interstate-commerce, anti-trust, and Elkins acts, involving in such cases volumes of evidence as to rates, values, and the details of transportation. The work is also augmented in proportion as the United States court is preferred to that of the State. The man or corporation who is mining or manufacturing or even owning land in another State appeals to the United States court for protection against the local prejudice which may prevail in that State and tries to obtain a hearing before a judge who does not have to look forward to a popular election. The decision of Chief Justice Taney that the organization of a corporation outside of a State gave it the privileges of a nonresident has thus brought into the United States court cases as to the title and management of land, as well as those involving contracts to labor, and accidents, which ought to be purely local. If the business which comes to United States courts is to increase during the next century in the same proportion that it has since the Civil War, it would almost be necessary to put a United States court in each county to dispose of the work.

The fault lies largely with the States. Mr. ROOT has rightly said that the tendency to centralization would be largely checked if the States would make and enforce proper laws. Nonresidents would not so often seek the United States courts if unflinching justice was always to be obtained elsewhere. United States pure-food laws would not be popular if State inspection laws enforced honest goods and true weights. If the courts of all the States and the juries of the country could be relied upon not to oppress the nonresident or to confiscate his property, Congress would probably have little hesitation in providing that all business done within a State should be subject to the rule of local State courts.

We ought to diminish the multitude of prosecutions which take up the time of the district court. We might well substitute small penalties for trial by indictment, but this substitution would not relieve the court unless local tribunals for the trial of small causes be established. It was the sense of the framers of the Constitution that statutory penalties might be recovered by an action of debt in the local State courts, and this was provided in several cases by statute (especially U. S. Stat., 2 Mar., 1815, c. 100), just as it was also provided that arrests could be made by a State criminal officer and the defendant held for trial before the United States court. Unfortunately, though such arrest is held constitutional as a mere incident of justice, the trial of a penal action before a State tribunal is held unconstitutional. (United States *v.* Lathrop, 17 Johns., 98 et seq.; 1 Kent Com., 402 to 404, states the law fully.) It is quite possible that the administration of small bankruptcies could well be intrusted to the local insolvency courts, subject to removal in proper cases. Congress has power to establish a uniform system of bankruptcy and prescribe rules for naturalization, and just as State courts formerly administered naturalization they perhaps could likewise administer a system of bankruptcy which should prescribe what shall constitute an act of bankruptcy and how the bankrupt's property shall be distributed. The need of a general bankruptcy law does not arise so much from faulty State administration of insolvencies, but from the inequality with which the property is distributed under various State statutes. It may well be claimed that local small-cause courts should also be established, together with a system of small penalties, which would relieve the higher courts from the tremendous quantity of criminal business under which they now groan.

The United States courts now have to deal principally with the unbending words of statutes. The far-sighted Representative from this district, Mr. GARDNER, has introduced a bill that in matters of interstate commerce the common law as modified by United States statutes is hereby enacted. I think his desire is to enlarge the statute law of common carriers, restraint of trade, and combination and conspiracy by the same elasticity, universality, and reasonableness that belong to the common law. Whether this can be done is doubtful, but it is certainly to be regretted that the common law is not the law of the United States and that United States courts are confined to the technical construction of written law. This adds much to their labor.

There may be a reflux of the tide of centralization. The employee may prefer to take the certainty of a State statute fixing employers' liability under the contract of employment rather than to risk the uncertainty of a United States jurisdiction which only extends over that employment when directly connected with interstate commerce. It will be a great relief, both to the State and United States courts, if State law could establish a proper and careful system of workmen's compensation in case of accidents, limited, possibly, according to the number of employees or the danger of the trades, and so adjusted that the damage caused by the accident shall be shared by both parties, according to fixed rules and without litigation. State remedies against all unfair competition may be preferred to a United States remedy, which can only affect interstate competition. The rule of a commission over transportation may become as unpopular as it is now popular, just as the alien and sedition law was strongly demanded when it was passed, but ruined the party that passed it. Experience is the only teacher of whom everyone must learn, and if the multitude of suits thrown upon the United States courts shall finally swamp those courts there may come a revulsion of public sentiment which will restore State matters to the local courts.

The practice and procedure of the United States tribunals, at least, has had much to do in enabling them in suits at law to cope with the tremendous burden which has been thrown upon them. The judge has not been deprived of his power to control trials. The act of 1872 wisely adopted the practice, pleadings, and forms and modes of proceeding employed in the State courts, but Congress has not adopted, and probably could not adopt, any State statutes or practices which would infringe upon the judicial power of the judge. Under the Constitution, Article III, section 2, the judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, etc.

The judge of a Federal court, like a judge in New Jersey, is still a constituent part of a jury trial at common law. Mr. Justice Brown, in a paper read before the American Bar Association in August, 1889, on judicial independence, says that "as he (the judge) is an indispensable and constituent factor in that proceeding known to the law as trial by jury, it is difficult to see why he is not as much entitled to protection against legislative interference in the discharge of his common-law duties as is the jury in the exercise of its proper functions."

He continues:

"'Trial by jury,' says Mr. Justice Gray, 'in the courts of the United States is a trial presided over by a judge, with authority not only to rule upon objections to evidence and to instruct the jury upon the law, but also, when in his judgment the due administration of justice requires it, to aid the jury by explaining and commenting upon, and even giving them his opinion upon, questions of fact, provided only he submits those questions to their determination.'"

Judge Brown notes that judges in various State courts are subject to acts or statutes prohibiting them from charging or commenting upon matters of fact, requiring all charges to be in writing, requiring that the judge give such instructions, and such only, as have been submitted to him by counsel, either with or without modification, and requiring the court, at the request of counsel, to submit special questions to the jury, to be answered in addition to their general verdict. These statutes are not applicable to the Federal courts. The Supreme Court has repeatedly declared that when the United States adopted the practice, pleading, and forms and modes of proceeding employed in the State courts they did not in any way affect the personal administration by the judge of his duties while sitting upon the bench, and in one case Mr. Justice Swayne says that the statute was not intended to fetter the judge in the discharge of his personal duties or trench upon the common-law powers with which in that respect he is clothed. "Whether Congress could do the latter was left open to doubt, and it was not then, and it is not now, necessary to decide that question." Mr. Justice Brown comments upon the injury done to the practice of the law by these State statutes. His address is contained in the proceedings of the American Bar Association for 1889.

Trials at law in the United States courts, and especially trials by jury, are still controlled by the judges according to the rules of the common law. Juries are well selected, decisions are prompt, and the administration of justice furnishes a model to the courts of every State. Mr. Taft, while Secretary of War, made some far-reaching criticisms upon the administration of criminal law, especially in some States. (Yale Law Journal, Nov., 1905, p. 1.) He comments (p. 12) upon the necessity that the judge control the method by which counsel try the case, restraining them to the points at issue, preventing them from diverting the minds of the jury to inconsequential and irrelevant circumstances and considerations, and aiding the jury by advising them how to consider the evidence and even by expressing an opinion on the evidence, leaving, however, to the jury the ultimate decision. Mr. Taft shows how State legislatures have exalted the power of the jury and diminished the power of the court in the tribunal made up of both, for the hearing of criminal cases, making it an error of law for the court to express his opinion upon the facts, and restricting the court to a written charge, so that "the verdict becomes rather the vote of a town meeting than the sharp, clear, decision of the tribunal of justice," while counsel creates by dramatic art and by harping on the importance of unimportant details a false atmosphere in the court room. He notes, also, our method of choosing jurors, the great number of challenges formerly allowed in his own State, by which the best men were struck off the jury, and he urges that "if men who commit crime were promptly arrested and convicted there would be no mob for the purpose of lynching. * * * It is the delays of justice that lead to its organization." It is because of the high character of the practice and procedure in the trial of cases at law that in certain States suits are so often brought in or removed to the United States court, where a judge, learned in the law, will control the trial and aid a competent jury in doing justice.

The practice in equity of the United States courts can not be so highly commended. Equity is based upon discretion. It is the essence of equity that there shall be but one chancellor, and that he shall control all the vice chancellors and judicial officers of his court, because equity "varies with the length of the chancellor's foot." One man's discretion is not another's. It has become inconvenient, even in customs cases and at law, that different circuits should make different decisions as to the meaning of a revenue statute, and we have properly established a Court of Customs Appeals by the Payne tariff law. It became unbearable in equity suits as to interstate commerce, based upon the antitrust act, the railroad regulation act, and the Elkins Act, that selection could be made as between all the judges in every district situated upon the railroad systems of the United States, so as to find one who was most favorable to using the injunction power, and we are therefore passing an act establishing a single Commerce Court, with exclusive jurisdiction over such suits, and in which four of the five judges shall always sit. It has become unbearable, also, to the patent lawyers of the country, at least to those who wish justice, that the same patent should be differently construed in different circuits, and that the owner of the patent can go from one end of the country to the other to find a weak defendant and a complacent judge who is known to have a constitutional enthusiasm for the poor inventor. It may be a dangerous business to establish special courts for special subjects but this question will more properly come before us when I reach the question of the judicial machinery of the United States courts. Returning to equity practice, we have greatly mitigated some parts of the ancient rules. It was a hardship amounting to tyranny that until about 10 years ago there was no appeal from an interlocutory order, whether for an injunction or a receiver, and that any judge's order, however rash, should remain without redress until the final hearing. By the act of June 6, 1900, all such orders are now appealable by either party with preference in hearing. The judges are, perhaps, more careful since that statute as to the form of their injunction and the case on which it should be granted. Relief is felt in every branch of the law, and especially in patent cases and labor disputes.

But perhaps the most unjust and inequitable form of equity practice in United States courts is in the taking of evidence. The old English chancery deposition, taken before an officer who had no power to rule upon evidence, was felt to be unjust and antiquated even in the first judiciary act of 1789, when it was enacted (1st Cong., 1st sess., chap. 20, sec. 30) that "the mode of proof by oral testimony and examination of witnesses in open court shall be the same in all the courts of the United States, as well in the trial of cases in equity and of admiralty and maritime jurisdiction, as of actions at common law," excepting only depositions taken de bene esse. It was, however, found impossible as business grew for the judges themselves to take all the evidence in an equity case, and in 1802 (7th Cong., 1st sess., chap. 31, sec. 25), it was enacted that in all suits in equity it shall be in the discretion of the court, upon the request of either party, to order the testimony of the witnesses therein to be taken by deposition, which depositions shall be taken in conformity to the regulations prescribed by law for the courts of the highest original jurisdiction in equity in cases of a similar nature in that State in which the court of the United States may be holden, with a proviso excepting such States as do not take testimony in equity by deposition.

The rules of the Supreme Court in equity were adopted under a statute allowing such rules to prescribe the practice, and these rules have continued this antiquated system of taking testimony before an examiner, who has no power to rule upon the evidence. Under this practice volume after volume of immaterial testimony is taken in patent causes, where experts employed at the expense of the poor litigant are cross-examined by the month by his richer opponent; or in trust cases, wherein the 20 or 30 volumes of the Standard Oil or the Tobacco Trust cases can hardly be read or referred to. The court must wander through this maze of uninstructive material in order to make up an opinion, which is often delayed so many years as to exhaust the life of the patent or otherwise leave the successful party without a real remedy. Justice delayed is justice denied. We have met the difficulty in our own State by recognizing the power of the court of equity to refer a case to a master, to hear the same and advise the chancellor what order or decree should be made therein. This reference to an advisory master was the old practice in our State whenever the chancellor was personally interested, and we have now recognized that power as generally necessary because of the growth of the business of the court, and have by statute authorized the appointment and pay of vice chancellors, who shall hear the case consecutively and orally, with a stenographer, and as if on trial by jury, and who shall advise the chancellor what order or decree shall be made. (See Gregory *v.* Gregory, 1 Robbins, p. 10.) The decree is the decree of the court, and not of the vice chancellor, though it will not be reviewed except as mentioned in the case cited, and in Sea Stream *v.* Exhibition Co. (59 Atl. Rep., p. 914), where the chancellor has added the case of the trial of indirect contempts, in which there is no appeal and a review is therefore allowed.

Reform in the United States practice by allowing such reference is urgently required, whether that reform be made by a new rule of the United States courts or by statute. Such a reference would often eagerly be sought by both parties, but whether that be so or not, such a provision is absolutely necessary to try cases and shorten trials. In other respects the practice in the United States courts has been much aided by statutes. Equity appeals under the antitrust or interstate commerce acts may be speeded. Writs of error may be taken by the United States from decision on matters of law, as in the quashing of an indictment where the defendant has not been put in jeopardy by a trial. Numerous further amendments are proposed by the American Bar Association. One provides that writs of error shall only be allowed where the error is certified to affect the substantial rights of the parties. A second is that a case may be certified and final judgment had thereon on appeal. This is probably so at common law. But, in this instance, as in the matter of taking testimony in equity, the common law and equity powers of the courts have been largely forgotten in the education of lawyers and judges in States where statutes have taken the place of the common law. We have lately passed through the House a bill shortening the time for pleading on the removal of causes, so that such removal shall not be made a means of delay. Congress and the bar are anxious, and they should be, that the practice and procedure of the United States courts shall be so amended that the courts may be able to deal promptly and efficiently with the business that comes before them.

In the matter of the efficiency of the courts, however, the most important and the most difficult condition in so broad and diversified a land as ours lies in the constitution of the courts themselves, the number of judges, the allotment of those judges, the assignment of appellate and original jurisdiction, and the territorial division of that jurisdiction, or, in other words, the machinery by which justice is to be done.

In considering this important subject we have to notice the growth of these courts. The great act of September 24, 1789, establishing the judicial system of the United States, provided a Supreme Court consisting of a Chief Justice and five Associate Justices, any four of whom should be a quorum, and divided the then 12 States which had assented to the Constitution into 13 districts, giving a separate district to Maine, then a part of Massachusetts. The Chief Justice was to receive $4,000 and the Associate Justices $3,500, and each of the district court judges from $800 to $1,800. Three circuits were provided (sec. 4), the eastern, including New Hampshire, Massachusetts, Connecticut, and New York; the middle circuit, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia; and the southern circuit, South Carolina and Georgia; and two circuit courts were to be held annually in each district. The circuit court was to consist of any two judges of the Supreme Court and the district judge, any two of whom were a quorum, and with a proviso that no district judge should vote on appeal or error from his own decision. The district court (sec. 9) only had criminal jurisdiction "where no other punishment than whipping, not exceeding 30 stripes, a fine not exceeding $100, or a term of imprisonment not exceeding six months is to be inflicted," besides all admiralty and maritime cases, seizures, and suits for penalties and forfeitures, suits by aliens for tort in violation of the law of nations or of treaty, and also concurrent jurisdiction with the circuit court of all suits at common law by the United States up to $100, with exclusive jurisdiction of suits against consuls and vice consuls. The circuit court (sec. 11) had concurrent jurisdiction with the State courts, of common law and equity suits involving over $500 where the United States was plaintiff, or an alien a party, or the suit was between citizens of different States; and it also had exclusive criminal jurisdiction of the higher crimes. Provision was made for the removal of causes from State courts by defendants who are citizens of another State, etc., much as to-day. The Supreme Court (sec. 13) had exclusive jurisdiction, as provided by the Constitution, of suits where a State was a party, or against ambassadors and their official families, with appellate jurisdiction from the circuit courts and courts of the several States. An appeal from the district court to the circuit court lay in admiralty cases (sec. 21) involving over $300, and (sec. 22) in civil actions involving over $50. A writ of error lay to the Supreme Court in matters involving over $2,000. By section 25, State decisions of the highest court against the validity of the United States treaties or statutes, or in favor of the validity of a State statute, which is questioned as being repugnant to the United States Constitution, may be reviewed on writ of error to the Supreme Court. By section 29 trials of cases punishable with death shall be in the county where the offense was committed; or, where that can not be done without great inconvenience, by jurors summoned from that county. And by section 33 criminals may be arrested by any justice of the peace or other magistrate of any of the United States where he may be found, agreeably to the usual mode of process against offenders in that State.

It is noticeable that this statute practically established circuit courts, which were also courts of appeal, including in each case two judges of the Supreme Court, and that the Supreme Court was thus to hear cases in divisions for the purposes of such appeals. This system had its advantages in that these circuit courts of appeals were composed of judges who were continually in conference with each other and who brought the best law home to the people. The district court was practically for the trial of small causes only, although the district court judge sat with the justices or justice of the Supreme Court in the circuit court. A court of at least two judges, including at least one justice of the Supreme Court, thus sat in every important case at common law or in equity, and this provision guarded all important civil and criminal trials, although, agreeably to the English practice, no writ of error could be taken in any criminal case. The disadvantages of this system lay in the excessive travel imposed upon the justices of the Supreme Court, and the difficulty of always obtaining two Supreme Court Justices to hear appeals from the district court.

On February 13, 1801, near the end of the presidential term of John Adams, an act was passed (6th Cong., 2d sess., chap. 4) for the more convenient organization of the courts of the United States. It provided (sec. 3) that after the next vacancy in the Supreme Court it shall consist of five justices only. Rhode Island, eastern and western Tennessee, Kentucky, and Ohio were added as districts, and the 17 districts were divided into six circuits. By section 7 three circuit judges were to be appointed for each circuit, with two sessions annually in each district and special sessions in their discretion.

The circuit court in the sixth circuit was to be held by one circuit judge with the judges of the district courts of Kentucky and Tennessee, whose places upon any vacancy should be supplied by the appointment of circuit judges. By section 9 a circuit judge might adjourn the session for any district if it shall be dangerous to hold that session. These circuit courts (sec. 11) were to have cognizance of all crimes and offenses in cases at common law or in equity arising under the Constitution or laws of the United States or treaties, or where the United States was plaintiff; of all seizures and penalties, and of all actions cognizable by the United States judges where the matter shall amount to $400; and also (sec. 12) under the bankrupt law and of cases removed from State courts (sec. 13) to the circuit court. One judge (sec. 15) might adjourn from day to day, impanel and charge the grand jury, order processes, receive indictments, etc, but the court should adjourn after five days if no other judge appeared. A single judge might grant injunctions and ne exeat in the same manner as a Supreme Court justice or (sec. 25) might take the place of the district judge if he be unable to perform his duties. Appeals from the district court and from the circuit court were much as before. It will be seen that by this act circuit courts are described as being very much like the present circuit court of appeals, but with original jurisdiction.

The act was passed in times of great excitement, just before the administration of Thomas Jefferson, who would not recognize the so-called midnight appointments of the circuit judges. A repealer of this act was immediately introduced, which finally passed March 8, 1802. (Stats., vol. 2, p. 132.) This legislation put the judges out of office, and its constitutionality was doubted. The debate on this act and on a preliminary resolution, introduced January 6, 1802, by Senator Breckenridge, that the act should be repealed, was opened by Senator Breckenridge. I have a copy of the whole debate in Congress, published in Albany in 1802. Senator Breckenridge argued that the number of suits had decreased, showing 1,274 commenced in 1799 and only 687 in 1800; that the time would never arrive when America will stand in need of 38 Federal judges and expend in judicial regulation annually the sum of $137,200; and that in England there were only 12 judges in three principal courts, trying all common law suits of 40 shillings and upward. He argued that when the judicial power was vested

in one Supreme Court and such inferior courts as Congress may from time to time ordain and establish, the word "may" implied the power to abolish; that the judge could hold his office only while the office remained and that otherwise complete sinecure offices will be created and hosts of constitutional pensioners settled upon us. Senator Jonathan Mason, of Massachusetts, recollected the great grievance in the Declaration of Independence that the Crown had the appointment of judges dependent on its will and favor, and insisted that, as under the Constitution the judges hold their offices during good behavior, Congress could not remove the office. He thought that the new system should be tried, that suits were sure to increase with our commerce, wealth, and numbers, and that we had better pay $40,000 more for a system that is too broad than to have one that is too narrow. Senator Morris, of New York, was of the opinion that there must be enough judges to bring justice to the people, that for six judges of the Supreme Court to ride the circuit of America twice a year and sit twice a year at the seat of Government the President "in selecting a corps for the bench must seek less the learning of a judge than the agility of a postboy," and that the constitutional check of an unremovable judiciary was of the first necessity to prevent an innovation of the Constitution by unconstitutional laws and to prevent any faction from intimidating or annihilating the tribunals themselves. He deemed it "pleasant" that you shall not take the man from the office, but might take the office from him; shall not drown him, but sink his boat under him; shall not put him to death, but may take his life; and he protested that by this act the sublime spectacle of a great State bowing before a tribunal of justice is removed. Senator Jackson, of Georgia, was more afraid of an army of judges under patronage of the President than of an army of soldiers. "Have we not heard judges crying out through the land 'sedition,' and asking those whose duties it was to inquire, 'Is there not sedition here?'" True, the sedition law had expired, but hereafter, if it should exist, your judges, under the cry of sedition and political heresy, may place half your citizens in irons. Senator Tracy, of Connecticut, attended, though very ill. He said the old courts had failed if one judge was unable to attend; appeals were not heard, and that the judges were the only check if the President or the States exceeded their powers. Senator Mason, of Virginia, protested that the Supreme Court salaries had been thought high, and in some parts of the Union they were thought enormous; that we were relieving them from duty and retaining for eight or 10 cases a year in the Supreme Court six judges.

Senator Stone, of North Carolina, added that there was danger in converting the office of judge into a hospital of incurables, which could be increased to any number; * * * a band of drones. Senator Morris again urged that the people intended to establish justice; that he loved the Constitution; that courts protected the most insignificant from an unconstitutional law or military oppression. He suggested that the mint cost $35,754.44 and had only coined between ten and eleven thousand dollars of copper, while objection was made to $40,000 more to the courts. Senator Baldwin, of Georgia, believed that delegated power always increased. He found an objection that while under the old system the same judges held the Supreme Court and a court in each of the States, except the new States, the courts in the several States are now to be held by different judges, which destroys the possibility of uniformity; he thought that State business ought to be kept in the State courts; that the general-welfare clause was not a distinct grant of power, but a limitation of the power granted to lay and collect taxes, etc. Senator Hillhouse, of Connecticut, stated that this was clearly a removal of the judges. Senator White, of Delaware, claimed that the new plan would allow justice to be done. Senator Chipman, of Vermont, considered that the number of terms of the Supreme Court and district courts and the immense distance to be traveled had been unreasonably great, and that from the labors and fatigue of riding the circuit there could not be allowed time sufficient for those studies and for that calm and deliberate attention which is so necessary to a proper discharge of the duties of judge. Senator Wells noticed that each judge held 12 courts a year, and that the decrease in cases was not real, but resulted from counting hundreds of the Miller suits on patents for ginning cotton in the older docket.

These brief citations from the beginning of the great debate show the tremendous interest which existed and the perils through which our courts have passed. The repealer passed the Senate by 16 to 15, or only 1 majority. It passed the Jeffersonian House by 60 to 34, with 8 Members absent. It was followed by an act, of April 29, 1802, establishing six circuits, each to be held by one Supreme Court justice and the district judge, with a provision for cases to be certified to the Supreme Court by certificate of division on a point of law.

The growth of the country gradually created many changes. The Revised Statutes of 1875, page 89, recognize 20 States as constituting one district each, and the rest as divided into 37 districts, making 57 in all. There were a few less district judges. The district courts had now obtained jurisdiction over all crimes, suits for penalties, common-law suits brought by the United States or its officers, equity suits for foreclosure of revenue liens on lands, admiralty cases, confiscations, suits for drawbacks or under the civil-rights laws, quo warrantos under the fourteenth amendment, suits by or against national banks, by aliens for torts, suits against consuls or vice consuls, and all bankruptcies. The Supreme Court Justices still sat at the circuit once a year, but in 1869 a circuit judge with a salary of $6,000 a year had been provided for each circuit, and the circuit courts were held under that act by the circuit justice or the district judge sitting alone, or by any two of the judges sitting together. Besides this civil jurisdiction the circuit court had concurrent jurisdiction with the district court of crimes and offenses. The old provisions for appeals from the district court still remained. The Supreme Court had been enlarged to a Chief Justice and eight Associate Justices by the act of 1837. It had been previously increased from six to seven. Under the same act of 1869 the Chief Justice received $10,500 and the Associate Justices received $10,000 a year each, and the court held one term, beginning on the second Monday in October, hearing appeals and writs of error from any circuit court, without regard to the sum in dispute in patent and revenue cases, and in other cases involving $2,000. Our courts had already expanded so as to create great confusion. Over 50 district judges could sit either as a circuit or district court in each district, trying cases of the utmost magnitude. The appeal from this district judge went direct to the Supreme Court of the United States. The circuit judge in some circuits sat in the more important cases, but the attendance of the Supreme Court Justice, as still required by statute, once a year for the trial of cases had become practically disregarded. The Supreme Court docket was in arrears and constantly growing, so that it took several years to obtain a trial of a writ of error or a hearing upon appeal.

The real modern problem as to delays in the Federal courts came to an issue in the year 1882. It was then carefully discussed and majority and minority reports filed in the American Bar Association. The majority report was signed by John W. Stevenson, Charles S. Bradley, Rufus King, Alexander R. Lawton, and Henry Hitchcock, and the minority report by Edward J. Phelps, Cortlandt Parker, William M. Evarts, and Richard T. Merrick. Both reports recognized the necessity of legislation for improvement in the organization of the judicial system. They recited that for 20 years after 1790 the average number of cases pending annually in the Supreme Court was less than 100; that after 1843 it was over 150; that from 1862 to 1882 it had increased from less than 350 to nearly 1,200, and though the number annually disposed of had increased from less than 150 to nearly 360 the court could not keep up with the arrears; that the last completed term had opened with 1,202 cases, of which 365 were disposed of during the year, leaving 837 untouched; that hearing was usually delayed three years, and that such delays afforded a premium for vexatious appeals. The report notes that Magna Charta pledged that justice should neither be sold nor denied nor delayed. It was admitted that the circuit courts needed more judges. Two general plans were proposed. The first provided that the Supreme Court should be divided into three divisions of three judges each, assigning as nearly as possible all equity cases to one division, all common-law cases to another, and all admiralty, revenue, and United States cases to the third, while the whole court in general session should hear constitutional questions and cases in error from the State supreme court. The other plan proposed what has since been established, an intermediate court of appeals in each circuit, whose judgment should be final in all cases involving less than $10,000, excepting those reserved for the Supreme Court because of the nature or importance of the questions involved. This plan included an increase in the circuit judges and put a higher money limit on appeals to the Supreme Court. The majority of the committee doubted whether a Supreme Court could properly be divided; they thought that any such division would impair the dignity of the court itself, and made little of the objection that there would be conflicting decisions in the various circuit appellate courts. The minority report, signed by the four lawyers above named, objected to abridging the jurisdiction of the Federal courts; suggested that the Supreme Court now have a quorum of six; that a small number of judges sitting together was the only way of obtaining the opinion of the whole court; that a hearing before the full court of nine had introduced the practice of delegating cases to a few judges or even one judge for examination, and they advocated the plan that the Supreme Court should be divided into two or more sections for the hearing of all cases except those that should properly be heard before the whole court, the division not to be made by permanent assignment, but as the court might from time to time find expedient, while constitutional questions were to be heard before the whole court, as well as such cases as any division ordered to be reargued. They proposed also that cases decided by a division should be reported to the whole court before decision was announced, so that the judgment should be the judgment of the whole, and thought that this would double or treble the working ability of the court. They insisted that there was no constitutional objection, and called attention to the decision of the court of errors in New Jersey (4 Zabriskie, 138), where the Constitution had created one Supreme Court and the legislature was held rightly to have divided the court for the dispatch of business.

The minority views objected to any intermediate court of appeals and a monetary limitation of $10,000. They said that the Supreme Court was never intended for the rich alone, but belongs to the people, although some pecuniary limit must be fixed to save it from being harassed with small controversies, and to exclude from it causes not large enough to pay the expenses of going there. They protested against this court being closed to ordinary cases and devoted by a high money limit principally to the service of the wealthy and the powerful, and they suggested the grave danger that it might gradually become the object of public jealousy and aversion. They feared the danger that separate circuit courts of appeal might give varying decisions, emitting a series of reports with no central court of appeal to regulate their conclusions and objected that this plan would not preserve the one Supreme Court, but establish for all practical purposes nine Supreme Courts, and as many more as there might be additional circuits. They thought that this made division of the Union; that more circuits would certainly become necessary, and that 12 judges in the Supreme Court would not be too many, there being the same number in the three courts of England, while subordinate appeals from the district court to the circuit court might well be revived.

The debate in the bar association is most interesting, the leaders being Henry Hitchcock and Edward J. Phelps. The latter insisted that better decisions would come from divisions of the Supreme Court because containing Supreme Court judges; that the circuit judges would have to be increased; that variety of law was to be anticipated from separate courts of appeal from Maine to California, in debtor States and creditor States, in hard-money States and in greenback States, in Northern States and in Southern States, in Eastern and Western, oppressed and controlled everywhere by interests so diverse, by traditions so different, by political sentiment so hostile, by local institutions so multiform, by corporate interests so powerful. He held that the law of the land is a reflex of the spirit of the land, and asked, "Can we reasonably hope from such tribunals a homogeneous system of law and uniform and harmonious course of decision, or is it likely to be a system of law under which a man who has a case in one circuit shall recover while his neighbor across the line with the same case in the other circuit shall fail, in which the Federal law shall be one thing here and another thing there?" He urged that in conclusions reached by branches of the Supreme Court there would be no possibility of conflict, the branches sitting at the same place and time in daily intercourse and consultations, and that a large money limit would close the doors of the court to the mass of the people and make it a rich man's court, to sink in the estimation of the people, and become an object of jealousy and distrust. Mr. Evarts felt that Supreme Court should by administrative arrangement be able to dispose of its cases and supported the same side.

The meeting was small and the majority report was adopted by a vote of 39 to 27. The matter was somewhat debated in the following year, but the system of intermediate appellate courts recommended by the majority has been adopted. It has relieved the docket of the Supreme Court to a very large extent. No ordinary cases are now taken to that court except when there are conflicting decisions on points of law in the circuit courts of appeals. But the results of that system of a separate court of appeals in each circuit have not been altogether encouraging. Patent lawyers have urged in successive Congresses that on the facts a patent is sustained in one circuit and not in another;

that the decision being upon questions of fact can not be taken to the one Supreme Court; and that the use of the patent being allowed in one part of the country and not in another the whole benefit of the patent in cases of manufactured articles is lost throughout the United States. It has been proposed by them to establish a single patent court of appeals. At the same time the eminent counsel who propose this court object strenuously to any permanent separate court appointed for life and ask that it shall be composed of judges detailed from the circuit or district courts who have been used to trying cases between man and man, so that it shall be a court of real lawyers and judges and not of patent experts. (See statement Mr. Frederick P. Fish, Jan. 5, 1907, p. 28, before the House Committee on the Judiciary.) On the other hand, there is a well-founded jealousy of creating any special separate court for special appeals. True, the confusion, difficulty, and delay in the construction of the revenue and customs laws has led to the institution of a court of customs to determine all questions arising in the tariff. The separation of such a revenue court from others is in accordance with the practice of most nations, and exampled by the English court of exchequer. Revenue questions are purely technical and always between the Government and the citizen, and may well be determined by a special court, as certainty in such matters is always preferable to uncertainty and delay. Suits in equity under the interstate-commerce and antitrust laws have become of such paramount and, one might say, paralyzing importance to the business of the country that we are now being driven to the institution of a commerce court, where any disputes as to transportation and rates may be settled with promptness and uniformity. The business of the country could not abide the uncertainty and delay which resulted in these matters from varying decisions and constant appeals in 85 circuit courts and nine circuit courts of appeal.

Enough has been said to show that improvement is still possible in the constitution of our judicial system. It needs facilities which are present in almost every well-organized State. We must return to some plan giving courts for the trial of small causes like the old district courts, where the smaller penalties, civil and criminal, may be promptly and economically enforced.

As to larger cases, I think almost every lawyer believes that the best judges, who sit in the higher courts, should likewise try cases below, and that the judges of the circuit courts should do more work in the original trial of cases. They are all overworked now. They can be relieved in some degree by remitting to the State courts cases that should properly be tried there. They can be relieved still more if their work as chancellors and judges in equity can be delegated to advisory masters or vice chancellors, or even if the evidence can be taken by such masters, with power to rule out what is not evidence and prevent the creation of so-called records, which are an abuse of judicial procedure. It is perhaps essential also that we should reverse the policy which has divided the States into innumerable districts and divisions. In larger districts a corps of judges can distribute and do the work, whereas an aged or invalid judge now leaves the work in his district in arrear. As to appeals, it is essential that they shall be promptly decided and that the decisions shall be uniform. We recognize the objection to creating separate courts for separate branches of the law, but there may be less objection to merging all the circuit courts of appeal in one court and assigning from time to time different judges to different sections or to different branches of the law, much as is done in the high court in England.

There are disadvantages, and very grave disadvantages, in any intermediate court of appeal. One well considered appeal is far better than two. We might, perhaps, also safely follow the English example of creating a large supreme court sitting in divisions for different classes of appeals and attending in that way to the appellate business of the whole country. There is always something practical about any English system, though this plan has never been tried in so large a country as we have here. We found it practical in the first judiciary act, when we sent our six judges by twos into the various circuits to try cases and hear small appeals in the first instance, while they heard appeals from the whole country in banc at the seat of government. The successive grades of district courts, circuit courts, circuit courts of appeal and Supreme Court have not brought us the same simplicity of practice, nor have they carried to the people the original trial of the case by the best judge that is to be found in the land, a peculiarity which is the glory of the English system as distinguished from the succession and graduations of courts of appeal which prevails in France. The bars of the country are brooding upon these questions. The Court of Commerce, the Customs Court, and the proposed court of patent appeals seem but the forerunners of some simple yet general revolution in our judicial system which will again give us one supreme court for appeal in all cases, with such inferior courts as Congress may from time to time establish. We strive with the problems of growth.

When we go into the Law Library in the Capitol at Washington, we find on the right of the entrance a little room, hardly 8 by 10 feet in size, which was the clerk's office of the Supreme Court of the United States. In the library itself we see opposite the window a plaster cast with blind justice holding the scales and the eagle attending as her executive and minister, and we remember that under that symbol sat John Marshall and his associates. We remember that their decisions gave life and vigor to the Constitution, and settled its powers as a living part of the Nation, and we believe that the Federal judiciary, to which men repair for justice in every part of our broad land and which has never failed in courage or honesty or independence, will yet be brought into a more harmonious whole, in which the judicial system of the nine circuits and eighty-odd districts shall be so organized as that we shall have truly united courts of the United States for the good of a united people.

Mr. HUBBARD of West Virginia was recognized.

Mr. MOON of Pennsylvania. Mr. Speaker, as the hour is now so late, and as it is our desire that a larger number of the membership of the House shall be present to hear the remarks of the gentleman from West Virginia, I move that the House do now adjourn.

The SPEAKER pro tempore. Pending the motion, the Chair will submit a request for leave of absence.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. PRINCE until Monday, on account of an official visit to West Point.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on War Claims was discharged from the further consideration of House Document No. 1265, Sixty-first Congress, third session, a letter from the Secretary of the Treasury transmitting a report on the claim of the State of Oregon for equipment of volunteer troops, and the same was referred to the Committee on Appropriations.

ADJOURNMENT.

The motion of Mr. MOON of Pennsylvania was agreed to; accordingly (at 5 o'clock p. m.) the House adjourned until to-morrow, Thursday, January 26, 1911, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the president of the Board of Managers of the National Home for Disabled Volunteer Soldiers, transmitting a statement of receipts and disbursements of the post fund for the five years ended June 30, 1910 (H. Doc. No. 1318); to the Committee on Military Affairs and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Chief Signal Officer of the Army submitting an estimate of appropriation for the Signal Service (H. Doc. No. 1317); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for a fire engine at the Military Academy (H. Doc. No. 1316); to the Committee on Military Affairs and ordered to be printed.

4. A letter from the Secretary of the Navy, transmitting estimates for construction of battleship *No. 34* (H. Doc. No. 1315); to the Committee on Naval Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. BOUTELL, from the Committee on Ways and Means, to which was referred the bill of the House (H. R. 31857) to amend section 6 of the currency act of March 14, 1900, as amended by the act approved March 4, 1907, reported the same without amendment, accompanied by a report (No. 1992), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 8129) to increase the efficiency of the Army, reported the same with amendment, accompanied by a report (No. 1993), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. ANSBERRY, from the Committee on Invalid Pensions, to which was referred sundry bills of the House, reported in lieu thereof the bill (H. R. 32078) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, accompanied by a report (No. 1991), which said bill and report were referred to the Private Calendar.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 30727) providing for the sale of certain lands to the city of Buffalo, Wyo., reported the same without amendment, accompanied by a report (No. 1994), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 29431) granting a pension to John H. Brown; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 28731) granting a pension to Charles I. Heywood; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 30500) granting an increase of pension to Frederick Claus; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HUMPHREY of Washington: A bill (H. R. 32079) to place the wagon road to Mount Rainier National Park, constructed under the direction of the Secretary of War, under the jurisdiction of the Department of the Interior; to the Committee on Military Affairs.

By Mr. MONDELL: A bill (H. R. 32080) to provide for the leasing of coal lands in the District of Alaska, and for other purposes; to the Committee on the Public Lands.

By Mr. GUERNSEY: A bill (H. R. 32081) changing the name of Fourteenth Street extension to Maine Avenue; to the Committee on the District of Columbia.

By Mr. ROBINSON: A bill (H. R. 32082) limiting the privileges of the Government free bathhouse on the public reservation at Hot Springs, Ark., to paupers; to the Committee on the Public Lands.

By Mr. MONDELL: A bill (H. R. 32083) to authorize the Sheridan Railway & Light Co. to construct and operate railway, telegraph, telephone, and trolley lines through the Fort Mackenzie Military Reservation, and for other purposes; to the Committee on Military Affairs.

By Mr. HOWARD: A bill (H. R. 32084) to incorporate the Carnegie Endowment for International Peace; to the Committee on the Judiciary.

By Mr. PAYNE: Resolution (H. Res. 930) providing for the consideration of House bill 32010; to the Committee on Rules.

By Mr. HUMPHREY of Washington: Joint resolution (H. J. Res. 277) for the appointment of a committee to investigate commerce on the high seas; to the Committee on Rules.

By Mr. SLAYDEN: Joint resolution (H. J. Res. 278) expressing the opinion of the Congress of the United States as to the propriety of a joint agreement between the various Governments of America for the mutual guaranty of their sovereignty and territorial integrity; to the Committee on Foreign Affairs.

By Mr. HAMER: Memorial of the Legislature of Idaho, relating to the election of United States Senators by direct vote of the people; to the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER of New York: A bill (H. R. 32085) granting an increase of pension to John C. Hagen; to the Committee on Invalid Pensions.

By Mr. ANDERSON: A bill (H. R. 32086) granting an increase of pension to Henry Strouss; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32087) granting an increase of pension to William K. Long; to the Committee on Invalid Pensions.

By Mr. BUTLER: A bill (H. R. 32088) granting an increase of pension to Charles S. Griffith; to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: A bill (H. R. 32089) granting a pension to William Huber; to the Committee on Pensions.

By Mr. CAMPBELL: A bill (H. R. 32090) granting a pension to Polly W. Riley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32091) granting a pension to Ruth C. Hartman; to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 32092) granting an increase of pension to John A. Johnson; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 32093) for the relief of the legal representatives of J. J. West, deceased; to the Committee on War Claims.

By Mr. DENBY: A bill (H. R. 32094) granting an increase of pension to Rhoda M. Le Gros: to the Committee on Pensions.

Also, a bill (H. R. 32095) granting an increase of pension to Charles June; to the Committee on Invalid Pensions.

By Mr. DENVER: A bill (H. R. 32096) granting a pension to Rosa Drumm Berry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32097) granting an increase of pension to John L. Fritz; to the Committee on Invalid Pensions.

By Mr. EDWARDS of Kentucky: A bill (H. R. 32098) for the relief of Tyre B. Turpin; to the Committee on War Claims.

By Mr. GREGG: A bill (H. R. 32099) for the relief of William Ludgate; to the Committee on Military Affairs.

Also, a bill (H. R. 32100) for the relief of Nathaniel L. Rich; to the Committee on Military Affairs.

By Mr. HEALD: A bill (H. R. 32101) granting an increase of pension to Mary E. Bookhammer; to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 32102) granting a pension to Albert G. Jenkins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32103) to remove the charge of desertion from the record of John H. Hubbard; to the Committee on Military Affairs.

By Mr. HUBBARD of West Virginia: A bill (H. R. 32104) granting an increase of pension to George W. Sullivan; to the Committee on Invalid Pensions.

By Mr. HUGHES of New Jersey: A bill (H. R. 32105) granting an increase of pension to Andrew J. Hopper; to the Committee on Invalid Pensions.

By Mr. KRONMILLER: A bill (H. R. 32106) for the relief of Julia Nolan, administratrix of the estate of Elizabeth Dean McCardell, deceased; to the Committee on War Claims.

By Mr. LUNDIN: A bill (H. R. 32107) granting a pension to William H. Mayo; to the Committee on Invalid Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 32108) granting an increase of pension to John S. Wilson; to the Committee on Invalid Pensions.

By Mr. MILLER of Minnesota: A bill (H. R. 32109) granting an increase of pension to Nancy W. Coffey; to the Committee on Invalid Pensions.

By Mr. MILLINGTON: A bill (H. R. 32110) granting an increase of pension to Charles E. Benson; to the Committee on Pensions.

By Mr. MORRISON: A bill (H. R. 32111) granting an increase of pension to Alfred D. Lofland; to the Committee on Invalid Pensions.

By Mr. PARSONS: A bill (H. R. 32112) granting a pension to Mary Eliza Newton; to the Committee on Invalid Pensions.

By Mr. RAINEY: A bill (H. R. 32113) granting an increase of pension to George Riel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32114) granting a pension to Mary A. Waters; to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 32115) granting an increase of pension to Daniel P. Hyatt; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 32116) granting an increase of pension to Jeremiah C. Chaffin; to the Committee on Invalid Pensions.

By Mr. THOMAS of North Carolina: A bill (H. R. 32117) for the relief of C. C. Tolson, his heirs or legal representatives; to the Committee on War Claims.

By Mr. WEISSE: A bill (H. R. 32118) granting an increase of pension to Adolph Wachter; to the Committee on Invalid Pensions.

By Mr. WILSON of Pennsylvania: A bill (H. R. 32119) granting a pension to Marie De Planque; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32120) granting a pension to Sara Jane Staddon; to the Committee on Pensions.

Also, a bill (H. R. 32121) granting an increase of pension to Elias Merrick; to the Committee on Invalid Pensions.

By Mr. JOYCE: A bill (H. R. 32122) to correct the military record of John W. Benson; to the Committee on Military Affairs.

By Mr. ANDERSON: A bill (H. R. 32123) granting an increase of pension to Emma E. Kanzleiter; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANDERSON: Paper to accompany bill for relief of Ann Eliza Dumble; to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of John F. Stallsmith (previously referred to Committee on Invalid Pensions); to the Committee on Pensions.

By Mr. ANSBERRY: Petition of business firms of Montpelier, Ohio, against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. ASHBROOK: Petition of Beal & Hanson, of Summit Station, Ohio, against parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. BURLEIGH: Petition of Woman's Literary Union of Auburn, Me., favoring investigation of causes of tuberculosis, typhoid fever, and other diseases originating in dairy products; to the Committee on Agriculture.

By Mr. BURLESON: Petition of Woman's Literary Club of Gulfport, Miss.; Woman's Club of Beatrice, Nebr.; Woman's Club of Milton, Mass.; Woman's Club of Clinton, Mass.; Monday Afternoon Club, of Passaic, N. J.; Jamaica Plain (Mass.) Tuesday Club; International Association of Car Workers' Lodge No. 59, of Clearfield, Pa.; Coterie Club, of Woodward, Okla.; and Newtonville (Mass.) Woman's Guild, for investigation and endeavor to check spread of tuberculosis and other diseases spread through dairy products; to the Committee on Agriculture.

Also, petitions of Cigar Makers' Union No. 102, of Kansas City, Mo.; Trades Union Assembly of Williamsport, Pa.; St. Louis Branch, Journeymen's Stonecutters' Association, of St. Louis, Mo.; Lima Trade and Labor Council, of Lima, Ohio; Journeymen Iron Molders' Union of Galion, Ohio; Knit Goods Cutters of Cohoes, N. Y.; Journeymen Horseshoers of Buffalo, N. Y.; Switchmen's Union of Chicago, Ill.; La Crosse Women's Club, of La Crosse, Wis.; Detroit Federation of Labor, Detroit, Mich.; International Brotherhood of Teamsters, of Aurora, Ill.; Brotherhood of Locomotive Engineers, of Fort Dodge, Iowa; Brotherhood of Railway Carmen, of Bluefield, W. Va.; Brotherhood of Railroad Trainmen, of Houston, Tex.; Brotherhood of Railroad Trainmen, of Traverse City, Mich.; International Molders' Union, of Cleveland, Ohio; Pattern Makers' Association, of Savannah, Ga.; Typographical Union No. 2, of Philadelphia, Pa.; and Cigar Makers' Union of America, Louisville, Ky., requesting repeal of 10-cent tax on oleomargarine; to the Committee on Agriculture.

Also, petition of Massillon (Ohio) Study Club; Glass Bottle Blowers' Association, Jeannette, Pa.; and Woman's Quotation and Book Club, of Almena, Kans., urging investigation by Congress of spread of tuberculosis and other diseases in dairy products; also repeal of 10-cent tax on oleomargarine; to the Committee on Agriculture.

By Mr. CALDER: Petition of Kings County Republican Club, for building war vessels in Government yards; to the Committee on Naval Affairs.

By Mr. CARY: Petition of Local No. 138, Journeymen Plasterers' Protective and Benevolent Society, of Milwaukee, Wis., for repeal of oleomargarine tax; to the Committee on Ways and Means.

Also, petition of Southern California Homeopathic Medical Society, against the Owen health bill; to the Committee on Agriculture.

By Mr. COCKS of New York: Petition of Townsend Scudder and others, for Senate bill 5677, promoting efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

By Mr. COOPER of Pennsylvania: Petition of the Victor Brewing Co., for temporary repeal of duty on barley; to the Committee on Ways and Means.

By Mr. CURRIER: Petition of Mrs. Henry F. Green and others, against the Mann bill, H. R. 30292; to the Committee on Interstate and Foreign Commerce.

Also, petition of Clarence E. Michels and 45 other citizens of Francistown, N. H., for the enactment of the Miller-Curtis interstate liquor bill, H. R. 23641; to the Committee on the Judiciary.

By Mr. DRAPER: Memorial of the Board of Aldermen of the City of New York, for construction of naval vessels in Government navy yards; to the Committee on Naval Affairs.

By Mr. ELLIS: Petition of Max A. Vogt and six others, of The Dalles, Oreg., against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. ESCH: Petition of citizens of the seventh congressional district of Wisconsin, against removal of duty on barley; to the Committee on Ways and Means.

By Mr. FITZGERALD: Memorial of the Board of Aldermen of New York City, for building battleship *New York* at the Brooklyn Navy Yard; to the Committee on Naval Affairs.

By Mr. FLOYD of Arkansas: Paper to accompany bill for relief of John R. Robertson; to the Committee on Invalid Pensions.

Also, petition of citizens of the third congressional district of Arkansas, against a local rural parcels post; to the Committee on the Post Office and Post Roads.

By Mr. FOCHT: Petition of Sterling Council, No. 449, Junior Order United American Mechanics, Huntingdon, Pa., for more stringent laws relative to immigrants; to the Committee on Immigration and Naturalization.

By Mr. FOSS: Petition of citizens of Illinois, relative to rural mail carriers; to the Committee on the Post Office and Post Roads.

By Mr. FULLER: Memorial of Chamber of Commerce of Champaign, Ill., for the Lowden bill, H. R. 30888; to the Committee on Foreign Affairs.

Also, petition of G. H. Gurler, of De Kalb, Ill., for the militia pay bill, H. R. 28436; to the Committee on Militia.

Also, petition of the Eby Loser Co., of Aurora, Ill., for the Esch bill, for a tax on white phosphorus matches, H. R. 30022; to the Committee on Ways and Means.

Also, petition of Horace Young, of Bristol, Ill., against a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of Col. Fred L. Hunt, of Los Angeles, Cal., for San Francisco as site of Panama Exposition; to the Committee on Industrial Arts and Expositions.

By Mr. GARNER of Texas: Petition of citizens of the fifteenth congressional district of Texas, against the establishment of a local rural parcels-post service on the rural delivery routes; to the Committee on the Post Office and Post Roads.

By Mr. GOULDEN: Memorial of Board of Aldermen of New York City, for construction of naval vessels in Government navy yards; to the Committee on Naval Affairs.

By Mr. GRAFF: Memorial of Christian Church of Peoria, Ill., favoring the Miller-Curtis bill; to the Committee on the Judiciary.

By Mr. GREGG: Petition of Harbor No. 20 of the American Association of Masters, Mates, and Pilots, of Galveston, Tex., for increasing efficiency of the Life-Saving Service by retirement of members; to the Committee on Interstate and Foreign Commerce.

By Mr. HANNA: Petition of James H. Corcoran and others, of Ardoch, N. Dak., against a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of citizens along post-office rural routes in North Dakota, for House bill 26791, favoring additional pay for rural delivery carriers; to the Committee on the Post Office and Post Roads.

By Mr. HENRY of Texas: Petition of citizens of Marlin, Tex., against a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. HIGGINS: Petition and papers to accompany House bill 3307, to correct the military record of Wight Bromley; to the Committee on Military Affairs.

Also, petition of the Common Council of New London, Conn., favoring bill to promote efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

By Mr. HOWELL of Utah: Petition of the Stevens Mercantile Co. and others, of Fillmore; L. O. Larsen and others, of Spring City; Okelberry & Sons and others, of Goshen; and Norton Thomas Co. and others, of Devils Slide, all in the State of Utah, against rural parcels-post law; to the Committee on the Post Office and Post Roads.

Also, petition of the Walla Walla Trades and Labor Council, relative to disposition of the Fort Walla Walla tract of land; to the Committee on the Public Lands.

Also, petition of citizens of Salina, and O. P. Satterthwaite, B. H. Tolman, Joseph Hansen, and others, of Brigham, Utah, against parcels-post law; to the Committee on the Post Office and Post Roads.

Also, petition of City Council of Salt Lake City, indorsing San Francisco as site for the Panama Exposition; to the Committee on Industrial Arts and Expositions.

Also, petition of Legislature of Utah, for pensioning participants in the Indian wars of 1854 and 1874 and for compensation for services rendered and supplies furnished; to the Committee on Pensions.

By Mr. LANGHAM: Petition of citizens of Pennsylvania, against parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. LATTA: Petition of citizens of Foster, Laurel, Cedar Rapids, Orchard, Plainview, Hadar, Fremont, Page, Magnet, Nickerson, Fordyce, Blair, Enola, and North Bend, all in the State of Nebraska, against local rural parcels-post service; to the Committee on the Post Office and Post Roads.

By Mr. LINDBERGH: Petition of citizens of Richmond, Minn., against rural parcels-post service; to the Committee on the Post Office and Post Roads.

By Mr. McKINNEY: Petition of residents of Edgington, Ill., against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. McMORRAN: Petition of C. Kern Brewing Co., of Port Huron, Mich., for removal of duty on barley; to the Committee on Ways and Means.

By Mr. MAGUIRE of Nebraska: Petition of business men of Falls City and Verdon, Nebr., against rural parcels post; to the Committee on the Post Office and Post Roads.

By Mr. MILLINGTON: Petition of Utica (N. Y.) Ministers' Association, for the Burkett-Sims bill; to the Committee on Interstate and Foreign Commerce.

Also, a petition of William Blaikie Co., of Utica, N. Y., against the enactment of House bill 25241, imposing a tax on druggists in certain cases; to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany bill for relief of Charles E. Benson; to the Committee on Pensions.

By Mr. MOORE of Pennsylvania: Petition of George S. Lenhart, against codification of the laws relative to printing in the Government departments; to the Committee on Printing.

Also, a petition of J. A. Dougherty's Sons, distillers, of Philadelphia, for House bill 29466; to the Committee on Ways and Means.

By Mr. O'CONNELL: Petition of navy-yard employees, favoring construction of revenue cutters in the Boston Navy Yard; to the Committee on Naval Affairs.

By Mr. OLDFIELD: Paper to accompany bill for relief of John H. Brown (previously referred to the Committee on Invalid Pensions); to the Committee on Pensions.

By Mr. PAYNE: Paper to accompany bill for relief of Edwin Richmond; to the Committee on Invalid Pensions.

By Mr. PEARRE: Petition of Builders' Exchange of Baltimore City, for Washington as site of Panama Exposition of 1915; to the Committee on Industrial Arts and Expositions.

By Mr. PRAY: Petition of 30 mechanics and others of Thompson, Ophir, Livingston, Sweetgrass, Garnet, Anaconda, Ovando, and Quartz, all in the State of Montana, against a rural parcels-post system, to the Committee on the Post Office and Post Roads.

By Mr. SHEFFIELD: Petition of Town Council of Little Compton, R. I., for Senate bill 5677, promoting efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

Also, petition of Town Council of Barrington, R. I., favoring Senate bill 5677, for retirement of members of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Texas: Petition of citizens of the sixteenth congressional district of Texas, against a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. SPARKMAN: Petition of citizens of Bartow, Clearwater, Lakeland, Plant City, St. Petersburg, Tarpon Springs, and Dade City, all in the State of Florida, against rural parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. SPERRY: Resolutions of the New Haven Trades Council, of New Haven, Conn., relative to the tax on oleomargarine; to the Committee on Agriculture.

By Mr. SULZER: Memorial of the Walla Walla Trades and Labor Council, relating to the disposition of the cavalry post at Fort Walla Walla, in Washington; to the Committee on Military Affairs.

By Mr. WEISSE: Petition of citizens of the sixth Wisconsin congressional district, against a parcels-post law; to the Committee on the Post Office and Post Roads.

SENATE.

THURSDAY, *January 26, 1911.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. WARREN, and by unanimous consent, the further reading was dispensed with and the Journal was approved.

CREDENTIALS.

Mr. RICHARDSON presented the credentials of HENRY A. DU PONT, chosen by the Legislature of the State of Delaware a Senator from that State for the term beginning March 4, 1911, which were read and ordered to be filed.

Mr. PURCELL presented the credentials of PORTER J. MCCUMBER, chosen by the Legislature of the State of North Dakota a Senator from that State for the term beginning March 4, 1911, which were read and ordered to be filed.

PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the Surgeon General of the Public Health and Marine-Hospital Service of the United States for the fiscal year 1910 (H. Doc. No. 1323), which, with the accompanying paper, was referred to the Committee on Public Health and National Quarantine, and ordered to be printed.

CALLING OF THE ROLL.

Mr. DAVIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Senator from Arkansas suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Clarke, Ark.	Jones	Simmons
Bailey	Crane	Kean	Smith, Md.
Bankhead	Crawford	Lodge	Smith, Mich.
Borah	Cullom	Martin	Smoot
Bradley	Cummins	Nelson	Stephenson
Brandegee	Curtis	Nixon	Stone
Briggs	Davis	Oliver	Sutherland
Bristow	Depew	Overman	Taliaferro
Brown	Dillingham	Page	Taylor
Bulkeley	du Pont	Paynter	Terrell
Burkett	Flint	Penrose	Thornton
Burnham	Frazier	Percy	Tillman
Burrows	Gamble	Perkins	Warner
Burton	Guggenheim	Piles	Warren
Carter	Hale	Purcell	Wetmore
Chamberlain	Heyburn	Richardson	
Clapp	Johnston	Root	

Mr. CHAMBERLAIN. I desire to announce that my colleague [Mr. BOURNE] is detained from the Chamber by illness, and has been this week.

Mr. BURNHAM. I understand that my colleague [Mr. GALLINGER] is necessarily absent from the Chamber.

The VICE PRESIDENT. Sixty-six Senators have answered to the roll call. A quorum of the Senate is present. The presentation of petitions and memorials is in order.

PETITIONS AND MEMORIALS.

Mr. NELSON presented a petition of the Real Estate Exchange of St. Paul, Minn., praying for the enactment of legislation to promote reciprocal trade relations between the United States and Canada, which was referred to the Committee on Foreign Relations.

Mr. CULLOM presented a petition of the Tri-City Central Trades Council, of Granite City, Ill., and a petition of Local Union No. 8, Cement Workers and Helpers' Union, of Springfield, Ill., praying for the repeal of the present oleomargarine law, which were referred to the Committee on Agriculture and Forestry.

He also presented a petition of Local Lodge No. 700, Brotherhood of Railroad Trainmen, of Kankakee, Ill., and a petition of Local Division No. 96, Brotherhood of Locomotive Engineers, of Chicago, Ill., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post Offices and Post Roads.

Mr. BRISTOW presented petitions of Local Councils Nos. 24, of Piqua; 145, of Sterling; 203, of Havensville; 696, of Columbus; 921, of Tipton; 151, of Peabody; 254, of Osawatomie; 55, of Salina; 15, of Pittsburg; 692, of Kansas City; 46, of St. Marys; 513, of Castleton; 23 and 92, of Randall; 2, of Topeka; 6, of Leavenworth; 4, of Ottawa; 360, of Cherrydale; 316, of Mount Hope; 131, of Lewisburg; 22, of Wamego; 34, of Paola; 88, of Galena; 16, of Winfield; 160, of Lone Star; 1, of Topeka; 167, of Clinton; 876, of Overbrook; 352, of Linn; 23, of Manhattan; 460, of Independence; 327, of Courtland; 194, of Jonathan City; 158, of Thayer; 346, of Clyde; 37, of Wellsville; 8, of Holton; 106, of Elmdale; 812, of Alma; 7, of Atchison; 770, of Waterville; 789, of De Soto; 290, of Kansas City; 118, of Valley Falls; 10, of Abilene; 227, of Garnett; 784, of Lyndon; 188, of Council Grove; 111, of Everett; 601, of Coats; 144, of Burns; 454, of Argentine; 402, of Lansing; 9, of Fort Scott; 301, of Neosho Falls; 849, of Harveyville; 123, of Wichita; 202, of Bonner Springs; 33, of Coffeyville; 233, of Willard; 873, of Conway Springs; 53, of Baldwin; 778, of Rossville; 236, of Elk Falls; 125, of Meturn; 14, of Emporia; and 352, of Linn, all of the Fraternal Aid Association, in the State of Kansas, praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post Offices and Post Roads.

Mr. WARREN presented a petition of the City Council of Cheyenne, Wyo., praying for the enactment of legislation to increase the salaries of railway mail clerks, etc., which was referred to the Committee on Post Offices and Post Roads.

Mr. DU PONT presented petitions of Captain Hydrick Post, No. 25, of Seaford; of General W. S. Hancock Post, No. 29, of Smyrna; of Admiral S. F. du Pont Post, No. 2, of Wilmington; of Charles Sumner Post, No. 4, of Wilmington; of Local Post No. 5, of New Castle; of Major W. F. Smith Post, No. 6, of